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**Report of the
Comptroller and Auditor General of India
on
Revenue Sector
for the year ended 31 March 2015**



Government of Haryana
Report No. 1 of the year 2016

Government of Haryana Report No. 1 of the year 2016

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को प्रस्तुत की गई
Presented to the Legislature
on 14 March 2016

Report of the Comptroller and Auditor General of India

on

Revenue Sector

for the year ended 31 March 2015

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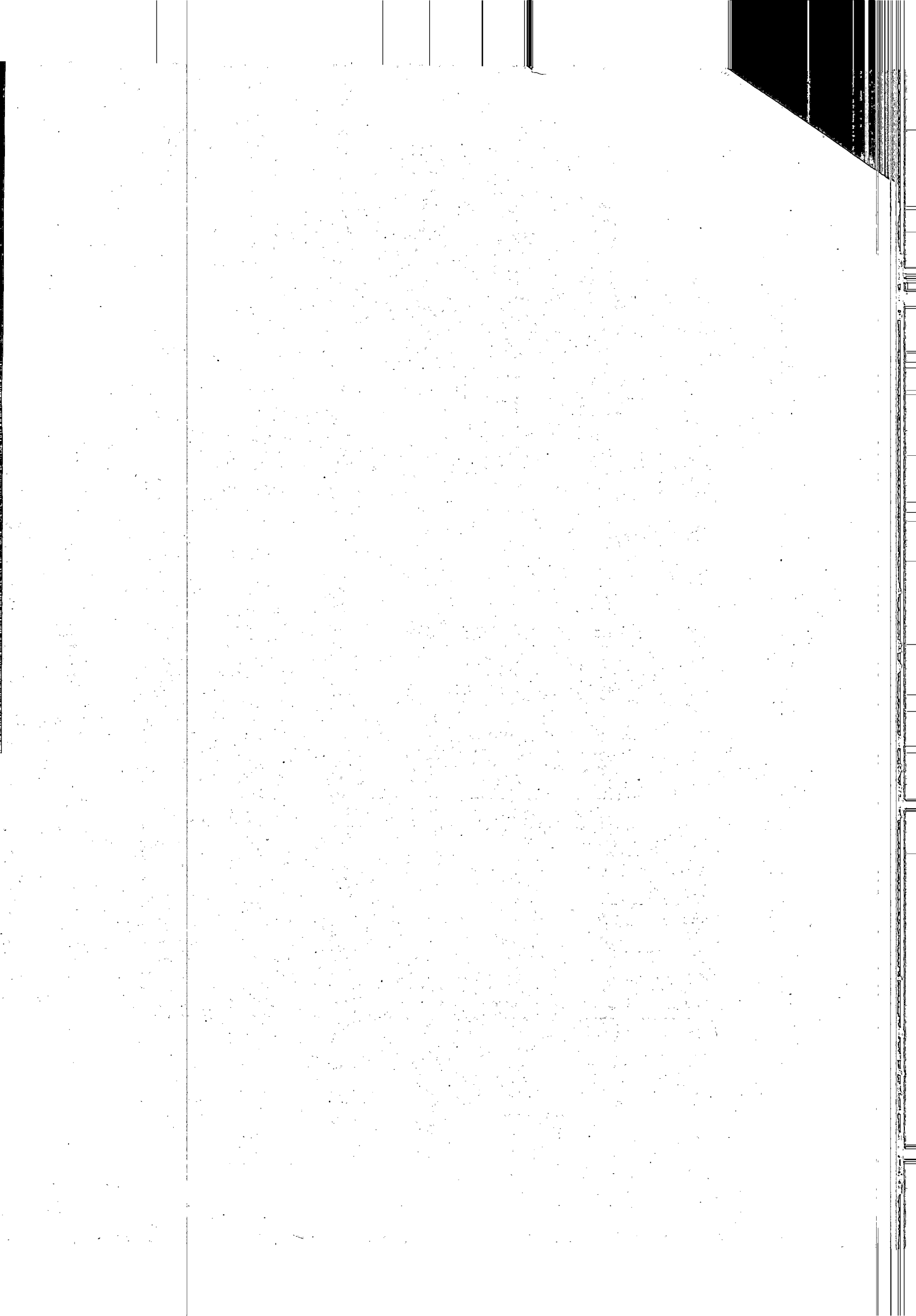


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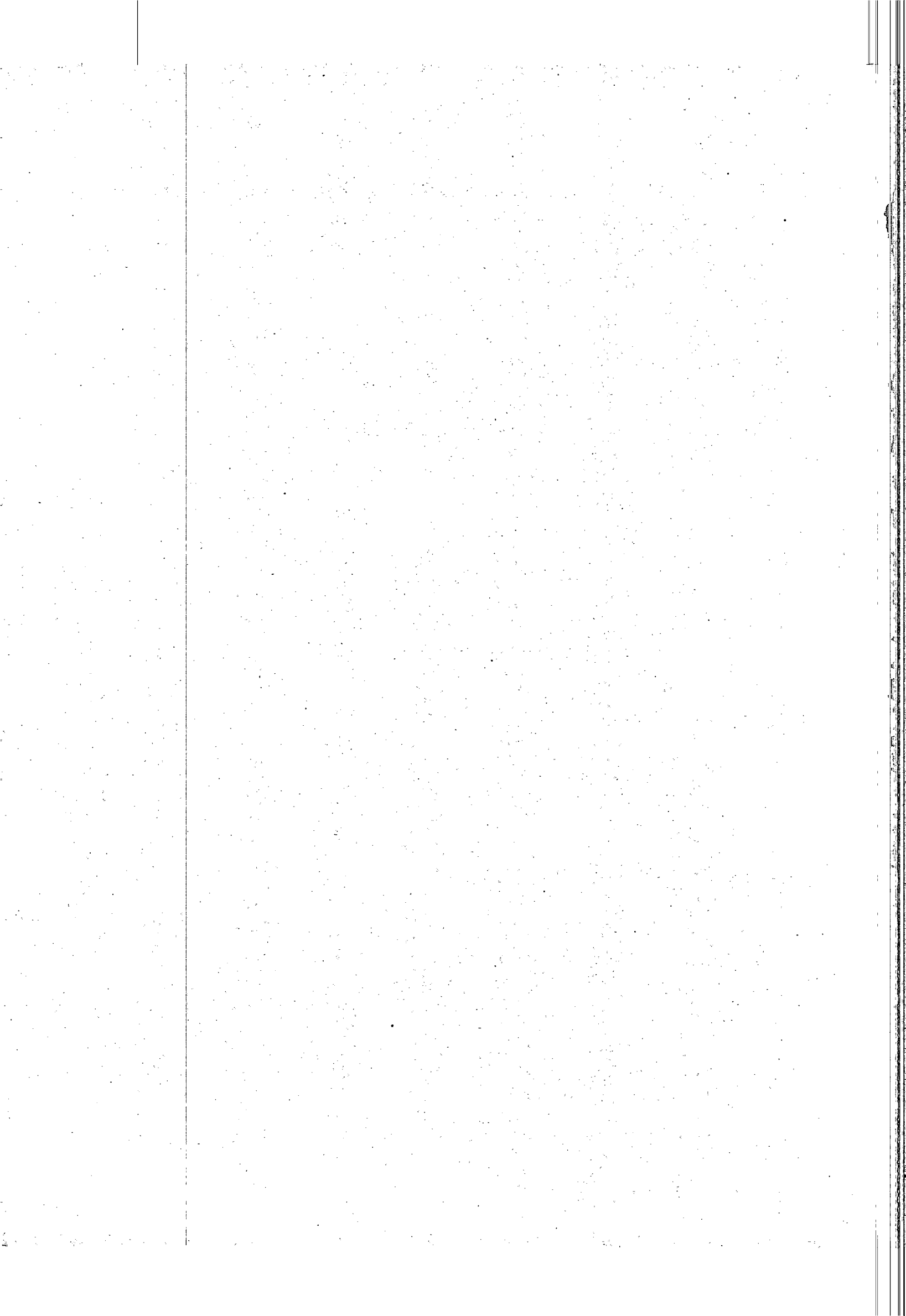
PREFACE

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2015 has been prepared for submission to the Governor of Haryana under Article 151 of the Constitution of India.

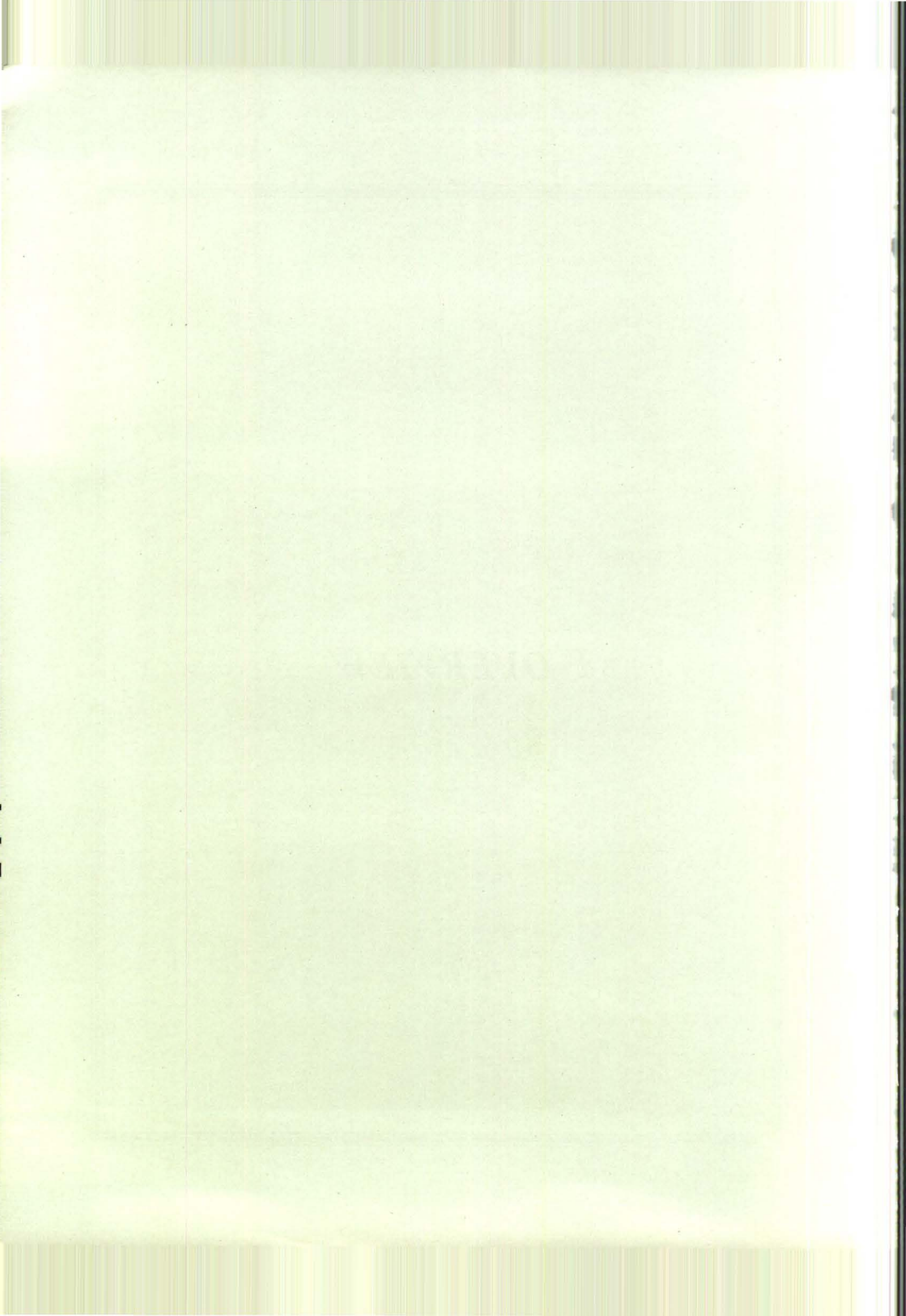
The Report contains significant findings of audit of Receipts and Expenditure of major Revenue earning Departments under Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2014-15 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2014-15 have also been included, wherever necessary.

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



OVERVIEW



OVERVIEW

This Report contains one Performance Audit on “**System of Assessment under VAT**” and 23 paragraphs relating to non/short levy of taxes, interest, penalty, non/short levy of excise duty, passenger and goods tax, royalty etc., involving tax effect of ₹ 407.87 crore.

1. Chapter-I

General

The total revenue receipts of the State Government for the year 2014-15 were ₹ 40,798.66 crore as compared to ₹ 38,012.08 crore during the year 2013-14. Out of this, 79 *per cent* was raised through tax revenue (₹ 27,634.57 crore) and non-tax revenue (₹ 4,613.12 crore). The balance 21 *per cent* was received from the Government of India as State’s share of divisible Union taxes (₹ 3,548.09 crore) and Grants-in-aid (₹ 5,002.88 crore). There was an increase in Revenue receipts over the previous year by ₹ 2,786.58 crore.

(Paragraph 1.1.1)

Test check of the records of 319 units of Sales Tax/Value Added Tax, State Excise, Stamp Duty and Registration fee, Taxes on Goods and Passengers, Taxes on Vehicles and Non-Tax receipts conducted during the year 2014-15 showed under assessments/short levy/non-levy/loss of revenue aggregating ₹ 2,677.30 crore in 3,89,086 cases. During the year 2014-15, the Departments accepted under assessment of ₹ 394.96 crore in 5,993 cases. Of these, the Department recovered ₹ 6.62 crore in 201 cases of earlier years.

(Paragraph 1.11)

2. Chapter-II

Taxes/Value Added Tax on sales, trade

A Performance Audit on “**System of Assessment under VAT**” showed the following:

Absence of provision for finalisation of assessments besides cancellation of registration certificate led to non realisation of revenue of ₹ 17.52 crore in two cases.

(Paragraph 2.2.8)

Failure of the Department to put in place a system of exchange of inter departmental data base from unregistered works contractors resulted in non realisation of tax of ₹ 35.66 crore besides penalty of ₹ 35.66 crore in 605 cases.

(Paragraph 2.2.9)

Incorrect application of rate of tax of four/five *per cent* on unclassified items valuing ₹ 235.50 crore, against the applicable rate of 12.5 *per cent*, resulted in underassessment of tax of ₹ 14.98 crore, in 49 cases, besides irregular refund of ₹ 92 lakh.

(Paragraph 2.2.11.1)

Assessing Authorities (AAs) allowed nil/concessional rate of tax on sale/transfer of goods against fake declaration forms C, F and H, which resulted in non levy of tax of ₹ 4.41 crore and penalty of ₹ 13.23 crore in 16 cases.

(Paragraph 2.2.11.2)

Assessing Authorities levied the differential amount of tax for not submitting the proof of movement of goods sold on C Forms and submitting false returns/VAT C-4 certificates but failed to levy mandatory penalty of ₹ 18.07 crore in 13 cases.

{Paragraphs 2.2.11.3 (i) and (ii)}

Assessing Authorities had wrongly calculated carry forward of tax, deduction of tax concession and did not levy interest and surcharge of ₹ 55 crore in 90 cases.

(Paragraph 2.2.11.4)

Despite issue of instructions/guidelines on March 2006/February 2007/July 2013 regarding preparation of check lists, obtaining accounts of declaration forms, proof of payment of tax, cross verification of sales/purchases and checking of movement of goods, the same were not being followed by the AAs while scrutinizing the cases.

(Paragraph 2.2.12.2)

Provisions relating to levy of penalty for non-filing of returns, obtaining refund application in proper proforma (VAT A-4), mentioning the nomenclature of the items sold/purchased in Form 'C', accepting complete C-4, VAT D-2/H Forms, were not complied with. Further, non-maintenance of demand and collection register, late serving of assessment orders/demand notices and delay in re-assessment of cases, resulted in short realisation of tax of ₹ 16.46 crore.

{Paragraph 2.2.12.2(a-e) and 2.2.12.3}

Transaction audit

Purchase of Duty and Entitlement Pass Book (DEPB)/Import License worth ₹ 95.81 crore, which are to be used for resale, was incorrectly allowed to be adjusted against Custom Duty payable, resulting in incorrect grant of ITC of ₹ 4.84 crore to a dealer.

(Paragraph 2.3)

Action to levy interest was not initiated even after a lapse of 12 months resulting in non levy of interest of ₹ 3.49 crore by the DETC (ST) Panchkula, in one case.

(Paragraph 2.4)

The AAs did not levy additional tax in the nature of surcharge at the rate of five *per cent* of the tax of ₹ 33.93 crore under VAT resulting in non levy of surcharge of ₹1.69 crore, in 42 cases.

(Paragraph 2.5)

Incorrect classification of steam/embroidered fabrics and spare parts and levying tax at lower rate against leviable rate of 12.5 *per cent*, resulted in non/short levy of tax and surcharge of ₹ 1.98 crore, in seven cases.

(Paragraph 2.6)

3. Chapter-III

State Excise

Forty one licensees failed to pay the monthly instalments of license fee due for the year 2013-14 by the prescribed dates and DETCs (Excise) did not initiate action to seal the vends resulting in non/short recovery/levy of license fee of ₹ 15.39 crore and interest ₹ 4.58 crore.

(Paragraph 3.2)

4. Chapter-IV

Stamp Duty

Eighty nine deeds were assessed at ₹ 258.45 crore instead of assessing at ₹ 566.65 crore based on the rates fixed by the Collector, resulting in short levy of SD of ₹ 14.53 crore.

(Paragraph 4.2)

The registering authorities assessed 127 sale deeds of plots with an area less than 1,000 square yards in urban areas and near residential areas in village but falling under the jurisdiction of municipality on the rates fixed for agricultural land instead of urban land which resulted in short levy of stamp duty of ₹ 2.46 crore.

(Paragraph 4.3)

Sixty five deeds were assessed as agricultural land at ₹ 35.92 crore on which SD of ₹ 1.63 crore was levied instead of the rates fixed for prime land by the collector for ₹ 66.78 crore on which SD of ₹ 2.86 crore was leviable which resulted in short levy of stamp duty ₹ 1.23 crore.

(Paragraph 4.4)

The registering authorities assessed the value of land at ₹ 4.27 crore and levied SD of ₹ 18.55 lakh on the basis of rates agreed to between the parties earlier instead of registration of documents as per Collector rates valued at ₹ 17.26 crore and SD of ₹ 89.80 lakh resulting in short realisation of SD of ₹ 71.25 lakh in 45 cases.

(Paragraph 4.5)

5. Chapter-V

Taxes on Vehicles, Goods and Passengers

Excise and Taxation Department (Passengers and Goods Tax)

Due to lack of internal control, monitoring and follow-up action, the assessing authorities failed to send notices to the defaulting vehicles owners, resulting in either non-updating of DCRs or short realisation of Passengers and Goods tax to the extent of ₹ 24.10 crore, besides interest of ₹ 14.59 crore, in 15,850 cases.

(Paragraph 5.2.1 to 5.2.4)

Transport Department

HSRPs were affixed without snap lock which was mandatory for better security; affixation of HSRPs on new registered vehicles ranged between 27 and 81 *per cent* and replacement of HSRPs on old vehicle had not started. Due to lack of monitoring and follow up action, the department had failed to issue notices to recover pending licence fees from the defaulting PCC owners/Driving Training Schools resulting in non recovery of license fee of ₹ 7 lakh.

(Paragraphs 5.3.1 to 5.3.5)

Non-observance of the financial rules by the controlling officer resulted in suspected misappropriation of Government money of ₹ 4.46 lakh.

(Paragraph 5.4)

6. Chapter-VI

Other Tax and Non-tax Receipts

Mines and Geology Department

Royalty and interest amounting to ₹ 24.92 lakh was not recovered from 81 brick kiln owners, who were issued permits between April 2011 and April 2014 in respect of five Districts.

(Paragraph 6.2)

CHAPTER-I
GENERAL

CHAPTER I: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Haryana during the year 2014-15, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India (GOI) during the year and the corresponding figures for the preceding four years are mentioned in **Table 1.1.1**.

Table 1.1.1
Trend of revenue receipts

(₹ in crore)						
Sr. No.	Particulars	2010-11	2011-12	2012-13	2013-14	2014-15
1.	Revenue raised by the State Government					
	• Tax revenue	16,790.37	20,399.46	23,559.00	25,566.60	27,634.57
	• Non-tax revenue	3,420.94	4,721.65	4,673.15	4,975.06	4,613.12
	Total	20,211.31	25,121.11	28,232.15	30,541.66	32,247.69
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties ¹	2,301.75	2,681.55	3,062.13	3,343.24	3,548.09
	• Grants-in-aid	3,050.62	2,754.93	2,339.25	4,127.18	5,002.88
	Total	5,352.37	5,436.48	5,401.38	7,470.42	8,550.97
3.	Total revenue receipts of the State Government (1 and 2)	25,563.68	30,557.59	33,633.53	38,012.08	40,798.66
4.	Percentage of 1 to 3	79	82	84	80	79

The above table indicates that during the year 2014-15, the revenue raised by the State Government (₹ 32,247.69 crore) was 79 per cent of the total revenue receipts. The balance 21 per cent of the receipts during the year 2014-15 was from the Government of India as State's share of net proceeds of divisible Union taxes and Grants-in-aid.

¹ For details please see Statement No. 14 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Haryana for the year 2014-15. Figures under the head 0021 - Taxes on income other than corporation tax - share of net proceeds assigned to States booked in the Finance Accounts under A - Tax revenue have been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

1.1.2 The details of tax revenue raised during the period 2010-11 to 2014-15 are given in Table 1.1.2.

Table 1.1.2
Details of Tax Revenue raised

													(₹ in crore)	
Sr. No.	Head of revenue	2010-11		2011-12		2012-13		2013-14		2014-15		Percentage of increase (+) or decrease (-) in 2014-15		
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	Actual over BE of 2014-15	Actuals 2014-15 over actuals of 2013-14	
1.	Taxes on sales trade etc/value added tax (VAT)	11,500.00	11,082.01	14,100.00	13,383.69	16,450.00	15,376.58	19,288.61	16,774.33	19,930.00	18,993.25	(-) 4.70	13.23	
2.	State Excise	2,100.00	2,365.81	2,400.00	2,831.89	3,000.00	3,739.48	4,000.00	3,697.35	4,350.00	3,470.45	(-) 20.22	(-) 6.14	
3.	Stamps and registration fees	1,900.00	2,319.28	2,350.00	2,793.00	3,000.00	3,326.25	3,850.00	3,202.48	3,950.00	3,108.70	(-) 21.30	(-) 2.93	
4.	Taxes on goods and passengers	425.00	387.14	425.00	429.32	450.00	470.76	520.00	497.45	650.00	527.07	(-) 18.91	5.95	
5.	Taxes on vehicles	350.00	457.36	515.00	740.15	750.00	887.29	850.00	1,094.86	1,175.00	1,191.50	1.40	8.83	
6.	Taxes and duties on electricity	140.00	130.27	155.00	166.43	160.00	191.96	201.40	219.20	232.25	239.74	3.22	9.37	
7.	Land revenue	13.79	10.02	16.09	10.95	15.28	12.98	19.33	12.42	13.50	15.28	13.19	23.03	
8.	Other taxes and duties on commodities and services	40.50	38.48	45.80	44.03	48.00	56.70	55.00	68.51	74.00	88.58	19.70	29.29	
	Total	16,469.29	16,790.37	20,006.89	20,399.46	23,873.28	23,559.00	28,784.34	25,566.60	30,374.75	27,634.57	(-) 9.02	8.09	

The above table shows that the tax revenue was increased from ₹ 16,790.37 crore in 2010-11 to ₹ 27,634.57 crore in 2014-15. There is a nominal decrease in actual figures over budget estimates (BEs) (9.02 per cent) during the year 2014-15. The respective Departments reported the following reasons for variation:

- **Stamps and registration fees:** The decrease in actual receipts to budget estimates (21.30 *per cent*) was due to less registration of documents of immovable/movable property.
- **State Excise:** The decrease in receipts (6.14 *per cent*) was due to litigation over the location of retail liquor vends on National Highway and State Highways.
- **Taxes on goods and passengers:** The decrease in actual receipts to budget estimates (18.91 *per cent*) was due to the exemption of passenger tax granted to Auto Rickshaw having seating capacity of three seats excluding driver and exemption granted of goods tax to Auto Rickshaw having gross vehicle weight upto one ton vide Notification dated 06 June 2014.
- **Land Revenue:** The increase in revenue receipts (23.03 *per cent*) was due to more recovery of Mutation fee, Copying fee and Revenue Talbana².
- **Other taxes and duties on commodities and services:** The increase in revenue receipts (29.29 *per cent*) was due to better monitoring and recovery of Entertainment duty.

1.1.3 The details of the non-tax revenue raised during the period 2010-11 to 2014-15 are indicated in **Table 1.1.3**:

Table 1.1.3
Details of Non-tax revenue raised

(₹ in crore)

Sr. No.	Head of revenue	2010-11		2011-12		2012-13		2013-14		2014-15		Percentage of increase(+) or decrease (-) in 2014-15	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	Actual over BE 2014-15	Actual 2014-15 over actuals of 2013-14
1.	Urban development	700.00	974.54	1,300.00	1,039.35	1,150.00	990.70	1,200.00	1,104.54	1220.00	861.11	(-) 29.42	(-) 22.04
2.	Road transport	900.00	761.72	1,100.00	852.96	1,150.00	999.87	1,315.00	1,097.54	1310.00	1235.31	(-) 5.70	12.55
3.	Interest receipts	864.70	689.34	816.49	864.96	1,080.04	1,058.21 ³	1,090.12	1,090.71	1142.51	933.59	(-) 18.29	(-) 14.41
4.	Education, sports, art and culture	154.40	270.37	299.47	295.72	386.41	385.43	438.14	318.94	527.83	564.48	6.94	76.99

² Charges for serving summons.

³ Includes ₹ 454.33 crore in book adjustment of interest on irrigation project capital interest.

Report for the year 2014-15 (Revenue Sector)

Sr. No.	Head of revenue	2010-11		2011-12		2012-13		2013-14		2014-15		Percentage of increase(+) or decrease (-) in 2014-15	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	Actual over BE 2014-15	Actual over actuals of 2013-14
5.	Miscellaneous general services	1.78	(-) 9.75 ⁴	1.04	128.49	1.30	312.30	5.89	268.37	30.00	20.38	(-) 32.07	(-) 92.41
6.	Medical and public health.	84.99	47.06	102.99	54.79	109.63	78.01	163.48	148.07	179.61	145.50	(-) 18.99	(-) 1.74
7.	Non-ferrous mining and metallurgical industries	200.00	82.59	75.00	75.53	225.00	75.49	150.00	79.10	500.00	43.46	(-) 91.31	(-) 45.06
8.	Other administrative services	147.47	115.63	170.76	99.95	156.00	125.86	136.80	144.35	167.39	95.73	(-) 42.81	(-) 33.68
	Major and medium irrigation	188.44	202.26	142.44	583.16	194.56	139.12	213.68	95.04	156.50	129.27	(-) 17.40	36.02
	Police	61.99	61.53	71.42	62.64	83.22	63.73	158.20	80.38	160.02	67.82	(-) 57.62	(-) 15.63
	Forestry and wildlife	40.00	44.32	61.00	39.12	45.00	41.36	45.00	37.37	40.00	44.29	10.73	18.52
	Other non-tax receipts.	204.74	181.33	220.73	624.98	223.39	403.07	246.17	510.65	432.70	472.18	9.12	7.54
Total		3,548.51	3,420.94	4,361.34	4,721.65	4,804.55	4,673.15	5,162.48	4,975.06	5,866.56	4613.12	(-) 21.37	(-) 7.28

The above table shows that there is a decrease in actual figures over budget estimates (21.37 per cent) during the year 2014-15. However, the respective Departments reported the following reasons for variation:

- **Urban development:** The decrease in actual receipts to budget estimates (29.42 per cent) was due to less receipt of License Fee, Conversion Charges and Composition fees.
- **Police:** The decrease in actual receipts to budget estimates (57.62 per cent) was due to non receipt of amount from Railway and police deployed for elections, law and order duties and less receipt of fees and fine.

4

Due to more refunds than receipts.

- **Forestry and wildlife:** The increase in actual receipts to budget estimates (10.73 per cent) was due to more receipts from sale of trees.
- **Road and Transport:** The increase in revenue receipts over previous year (12.55 per cent) was due to increase in buses and covered Kms.
- **Major and medium irrigation:** The increase in revenue receipts (36.02 per cent) was due to arrears recovered during 2014-15.
- **Urban development:** The decrease in revenue receipts (22.04 per cent) was due to cyclical trend of real estate market.
- **Other administrative services:** The decrease in revenue receipts (33.68 per cent) was due to less receipts of fines and other receipts.

The other Departments despite being requested (August 2015) did not intimate the reasons for variations in receipts.

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2015 in some principal heads of revenue amounted to ₹ 8206.76 crore of which ₹ 5896.28 crore was outstanding for more than five years, as detailed in **Table 1.2**.

Table 1.2
Arrears of revenue

				(₹ in crore)
Sr. No.	Heads of revenue	Amount outstanding as on 31 March 2015	Amount outstanding for more than five years as on 31 March 2015	Replies of Department
1	Taxes on sales, trade/VAT etc.	7443.04	5611.64	Recovery of ₹ 438.80 crore was stayed by the High Court and other judicial authorities, ₹ 58.47 crore were held up due to the dealers becoming insolvent, ₹ 71 crore were proposed to be written off, ₹ 768.81 crore were held up due to rectification, review and appeal. Recovery of ₹ 193.88 crore was outstanding due to cases pending with the official liquidator/Board of Industrial and Financial Reconstruction (BIFR). Recovery of ₹ 7.35 crore was being made in instalments. Balance amount of ₹ 5,904.73 crore was at different stages of action.
2	State Excise	179.08	96.33	Recovery of ₹ 8.37 crore was stayed by High Court and other judicial authorities, ₹ 0.15 crore was likely to be written off. ₹ 5.96 crore was outstanding due to case pending with official liquidator/BIFR. Recovery of ₹ 5.20 crore was being made in instalments. Recovery of ₹ 38.78 crore was due to Inter State and Inter Districts arrears respectively. ₹ 0.02 crore was held up for review/rectification application. Balance of ₹ 120.60 crore was outstanding at different stages of action.
3	Taxes and duties on electricity	159.35	111.98	₹ One crore was recoverable from M/s Haryana Concast Hisar, ₹ 38 lakh from M/s Rama Fibers Bhiwani, ₹ 30 lakh from M/s Dadri Cements, Charkhidadri and ₹ 16 lakh from M/s Competent Alloys Ballabgarh. ₹157.51 crore was pending against the consumers of Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL)/Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL).

Report for the year 2014-15 (Revenue Sector)

				(₹ in crore)
Sr. No.	Heads of revenue	Amount outstanding as on 31 March 2015	Amount outstanding for more than five years as on 31 March 2015	Replies of Department
4	Taxes on goods and passengers	63.62	15.23	An amount of ₹ 61.22 crore was outstanding at different stages of action, ₹ 2.32 crore on account of demand covered by recovery certificates and ₹ 27,000 was written off. Recovery of ₹ 8 lakh as stayed by High Court and other judicial authorities.
	Tax on entry of goods into local areas(Local Area Development Tax)	218.24	28.96	Recovery of ₹ 165.11 crore was stayed by the High Court, judicial and other Departmental authorities. Recovery of ₹ 0.37 crore was being made in instalments. Balance amount of ₹ 52.76 crore was outstanding at different stages of action
5	Police	107.89	8.20	₹ 7.38 crore was due from Indian Oil Corporation (IOC) up to 31 March 2007. The matter of recovery from IOC in Haryana State is pending at the level of State Government. ₹ 53 lakh was recoverable from other States for Law and Order and election duties, ₹ 29 lakh was recoverable from Bhakra Beas Management Board (BBMB), Faridabad and ₹ 99.69 crore was recoverable from other States for election duties.
6	Other taxes and duties on commodities and service	10.75	2.96	Recovery of ₹ 7.34 crore had been stayed by the High Court and other judicial authorities, ₹ 0.01 crore was likely to be written off, Balance amount of ₹ 3.40 crore was at different stages of action.
7	Non-ferrous mining and metallurgical industries	24.79	20.98	₹ 16.02 crore was outstanding on account of demand covered by recovery certificates. ₹ 0.54 crore was stayed by the High Court and other judicial authorities. ₹ 1.36 crore was likely to be written off. ₹ five crore was due as Inter State and Inter district arrears and ₹ 1.87 crore was outstanding at different stages of action.
Total		8,206.76	5,896.28	

1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year as furnished by the Excise and Taxation Department in respect of sales tax, luxury tax, tax on works contracts and Passengers and Goods Tax (PGT) was as below in **Table 1.3**.

Table 1.3
Arrears in assessments

Head of revenue	Opening balance	New cases due for assessment during 2014-15	Total assessments due	Cases disposed of during 2014-15	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
Taxes on Sales, trade/VAT	2,51,170	2,73,221	5,24,391	2,53,652	2,70,739	48
Taxes on goods and passengers	2,049	912	2,961	762	2,199	26

1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected by the Excise & Taxation Department, cases finalised and the demands for additional tax raised as reported by the Department are given in **Table 1.4**.

Table 1.4
Evasion of Tax

(₹ in crore)

Sr. No.	Head of revenue	Cases pending as on 31 March 2014	Cases detected during 2014-15	Total	Number of cases in which assessment/investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalisation as on 31 March 2015
					Number of cases	Amount of demand	
1	Tax on sales trade/VAT etc.	37	2,097	2,134	2,071	15.12	63
2	State excise	695	3,117	3,812	3,092	1.99	720
3	Tax on goods and passengers	1,474	12,688	14,162	7,567	10.83	6,595
Total		2,206	17,902	20,108	12,730	27.94	7,378

It would be seen from the table that the number of cases pending at the end of the year has slightly increased in the case of State Excise and excessively in the case of Tax on Goods and Passengers as compared to the number of cases pending at the start of the year.

1.5 Refund Cases

The number of refund cases pending at the beginning of the year 2014-15, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2014-15 as reported by the Department is given in **Table 1.5**.

Table 1.5
Details of refund cases

Sr. No.	Particulars	(₹ in crore)			
		Sale tax/VAT		State Excise	
		Number of cases	Amount	Number of cases	Amount
1	Claims outstanding at the beginning of the year	526	50.09	45	0.59
2	Claims received during the year	2,516	786.62	43	3.33

Sr. No.	Particulars	(₹ in crore)			
		Sale tax/VAT		State Excise	
		Number of cases	Amount	Number of cases	Amount
3	Refunds made during the year	2,348	647.49	50	3.62
4	Balance outstanding at the end of year	694	189.22	38	0.30

The number of outstanding cases shows a marginal increase for Sales tax/VAT and decrease for State Excise.

1.6 Response of the Government/Departments towards audit

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

Inspection reports issued up to December 2014 disclosed that 4,911 paragraphs involving ₹ 3,489.99 crore relating to 1,966 IRs remained outstanding at the end of June 2015 as mentioned below along with the corresponding figures for the preceding two years in **Table 1.6**.

Table 1.6
Details of pending Inspection Reports

	(₹ in crore)		
	June 2013	June 2014	June 2015
Number of IRs pending for settlement	1,890	1,919	1,966
Number of outstanding audit observations	4,464	4,579	4,911
Amount of revenue involved (₹ in crore)	1,871.65	3,084.83	3,489.99

1.6.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2015 and the amounts involved are mentioned in **Table 1.6.1**.

Table 1.6.1
Department-wise details of IRs

Sr. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	(₹ in crore)
					Money value involved
1	Excise and Taxation	Sales /VAT	276	1,911	3,200.77
		State Excise	132	263	144.82
		Taxes on goods and passengers	186	328	20.17
		Entertainment duty and show tax	18	20	10.95
2	Revenue	Stamps and registration fees	864	1,786	77.17
		Land Revenue	120	159	0.43
3	Transport	Taxes on vehicles	256	300	12.49
4	Power	Taxes and duties on electricity	1	1	0.04
5	Mines and Geology	Non-ferrous mining and metallurgical industries	113	143	23.15
Total			1,966	4,911	3,489.99

Audit did not receive even the first replies from the heads of offices within four weeks from the date of receipt of the IRs for 155 IRs issued during 2014-15. This large pendency of the IRs due to non-receipt of the replies was indicative of the fact that the heads of offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs.

The Government may consider to have an effective system for prompt and appropriate response to audit observations.

1.6.2 Departmental Audit Committee Meetings

The Government set up audit committees to monitor and expedite the progress of the settlement of the IRs and paragraphs in the IRs. The details of the audit

committee meetings held during the year 2014-15 and the paragraphs settled are mentioned in **Table 1.6.2**.

Table 1.6.2
Details of Departmental audit committee meetings

				(₹ in crore)
Sr. No.	Head of revenue	Number of meetings held	Number of paragraphs settled	Amount
1	Excise and Taxation Department (Sales Tax)	6	248	56.96
2	Transport Department	4	211	3.67
3	Revenue Department	1	1	0.01
	Total	11	460	60.64

1.6.3 Non-production of records to audit for scrutiny

During the year 2014-15 as many as 1,618 assessment files, refund cases, returns, refunds registers and other relevant records were not made available to audit involving tax effect of ₹ 908.44 crore. Break up of these cases is given in **Table 1.6.3**.

Table 1.6.3
Details of non-production of records

Name of the Office/Department	Year in which it was to be audited	Number of cases not audited	Tax amount/refunds
Assessment cases			
DETC (ST) Faridabad (East)	2014-15	59	15.42
DETC (ST) Gurgaon (East)	2014-15	79	34.67
Refund cases			
11 DETCs (ST) ⁵	2014-15	1,480	858.35
	Total	1,618	908.44

1.6.4 Response of the Departments to the 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 PAG to the Principal Secretary/Additional Chief Secretaries of the concerned Department, drawing their attention to audit findings and requesting them to send their

⁵ Ambala, Fatehabad, Faridabad (East), Faridabad (West), Gurgaon (East), Gurgaon (West), Kaithal, Karnal, Kurukshetra, Sirsa and Sonipat.

response within six weeks. The fact of non-receipt of the replies from the Departments/ Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Thirty draft paragraphs including one Performance Audit were sent to the Additional Chief Secretaries of the respective Departments between February and August 2015. Departmental replies received had been suitably incorporated.

1.6.5 Follow up on the Audit Reports-summarised position

According to the instructions issued by the Finance Department in October 1995 and reiterated in July 2001, it had been laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes (ATENs) thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed. Eighty five paragraphs (including performance audit) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Haryana for the year ended 31 March 2011, 2012, 2013 and 2014 were placed before the State Legislative Assembly between March 2012 and March 2015. The ATENs from the concerned Departments on these paragraphs were received late with average delay of 36 months in respect of each of these Audit Reports. ATENs in respect of 53 paragraphs from four departments (Excise and Taxation, Transport, Revenue and Mines and Geology) as mentioned in **Annexure I** had not been received for the Audit Reports year ended 31 March 2011 to 31 March 2014 so far (May 2015).

The PAC discussed 21 selected paragraphs pertaining to the Audit Reports for the year 2009-10 and its recommendations on 21 paragraphs were incorporated in their 71st Report for the year 2014-15. 820 recommendations pertaining to the period 1979-80 to 2009-10, contained in 22nd to 71st Reports of PAC as mentioned in **Annexure II** and **III** were still pending for want of final corrective action to be taken by the concerned Departments.

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

To analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the action taken on the paragraphs and performance audits included in the Audit Reports of the last 10 years for one Department is evaluated and included in this Audit Report.

The succeeding paragraphs 1.7.1 to 1.7.2 discuss the performance of the Stamp duties and registration fees (Revenue and Disaster Management Department) under revenue head 0030 and cases detected in the course of local audit during the last 10 years included in the Audit Reports for the year 2004-05 to 2013-14.

1.7.1 Position of Inspection Reports

The summarised position of the inspection reports issued to the Revenue and Disaster Management Department during the last 10 years, paragraphs included in these reports and their status as on 31 March 2015 are mentioned in **Table 1.7.1**.

Table 1.7.1
Position of Inspection Reports

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para- graphs	Money value	IRs	Para- graphs	Money value	IRs	Para- graphs	Money value	IRs	Para- graphs	Money value
2005-06	923	2,292	32.26	105	295	12.14	5	156	2.77	1,023	2,431	41.63
2006-07	1023	2,431	41.63	107	413	12.47	92	286	1.72	1,038	2,558	52.38
2007-08	1038	2,558	52.38	140	436	9.15	191	754	21.35	987	2,240	40.18
2008-09	987	2,240	40.18	161	304	17.80	213	388	4.76	935	2,156	53.22
2009-10	935	2,156	53.22	117	325	12.49	74	306	10.23	978	2,175	55.48
2010-11	978	2,175	55.48	106	276	12.11	177	450	7.42	907	2,001	60.17
2011-12	907	2,001	60.17	97	328	12.52	222	650	17.68	782	1,679	55.01
2012-13	782	1,679	55.01	89	220	8.58	70	210	7.44	801	1,689	56.15
2013-14	801	1,689	56.15	89	207	15.23	26	110	1.71	864	1,786	69.67
2014-15	864	1,786	69.67	89	314	22.43	25	107	3.20	928	1,993	88.90

It is evident from the above table that number of outstanding IRs increased to 928 and paragraphs has decreased to 1,993 respectively as on 31 March 2015. The Government arranges ad-hoc Committee meetings between the Department and PAGs office to settle the remaining old paragraphs.

1.7.2 Recovery in accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in **Table 1.7.2**.

Table 1.7.2
Recovery of accepted cases

(₹ in crore)

Year of the audit report	Number of paragraphs included	Money value of the paragraph	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative positions of recovery of accepted cases
2004-05	04	1.47	04	1.47	Nil	Nil
2005-06	03	7.25	03	7.25	0.11	0.11
2006-07	03	0.34	03	0.34	0.01	0.01
2007-08	04 01 (Review)	1.70 24.69	04 01 (Review)	1.70 15.11	Nil	0.01
2008-09	05	0.76	05	0.76	0.01	0.06
2009-10	01 (Review)	22.85	01 (Review)	20.96	0.12	2.44
2010-11	06	5.49	06	5.49	0.02	0.09
2011-12	06	4.13	06	4.13	Nil	0.38
2012-13	07	65.27	07	65.27	0.13	0.17
2013-14	06 01 (IT Audit)	18.30 203.87	06 01 (IT Audit)	18.30 203.87	0.01 Nil	0.01 Nil
Total	44 03 (Review/IT Audit)	104.71 251.41	44 03 (Review/IT Audit)	104.71 239.94	0.29 0.12	3.28
Grand Total	47	356.12	47	344.65	0.41	3.28

It is evident from the above table that the progress of recovery even in accepted cases was very low (0.95 per cent) during the last 10 years.

The department may take immediate action to pursue and monitor prompt recovery of the dues involved in accepted cases.

1.8 Action taken on the recommendations accepted by the Departments/Government

The Reviews/IT Audit conducted by the PAG/AG are forwarded to the concerned Department/Government for their information with a request to furnish their replies. These Reviews/IT Audit were also discussed in exit conference and the Departments/Governments views were included while finalising the Reviews/IT Audit for the Audit Reports.

The IT Audit titled 'Haryana Registration Information System' (HARIS) of Revenue Department Haryana featured in the Report for the year 2013-14 along with four recommendations were yet to be taken up for discussion in the PAC.

1.9 Internal Audit

The Finance Department has an overall administrative control over the posting/deployment of Subordinate Accounts Service passed personnel in various departments. The concerned Department is responsible for formulation and execution of action plan for internal audit to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

During the year 2014-15, out of 271 units planned for audit, Internal Audit Cell audited 229 units (85 per cent) as detailed in **Table 1.9**.

Table 1.9
Internal Audit

Receipts	Number of units Planned	Number of units audited
Stamp Duty	130	130
State Excise	21	12
VAT/Sales Tax	21	Nil
Motor Vehicle Tax	78	78
Passengers and Goods Tax	21	9
Total	271	229

The irregularities discussed in the paragraphs of Chapters II to VI are indicators of ineffective internal control mechanism as none of the irregularities pointed out by us were detected by the internal audit parties. No internal audit was done by the Excise and Taxation Department (Sales tax/VAT and Entertainment duty) and reasons for not conducting internal audit was not provided by the Department.

1.10 Audit planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which inter-alia includes critical issues in Government revenues and tax administration i.e. budget speech, white paper on State finances, reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during the past five years etc.

During the year 2014-15, there were 619 auditable units, of which 319 (Revenue 280 + Expenditure 39) units were planned and audited.

1.11 Results of audit

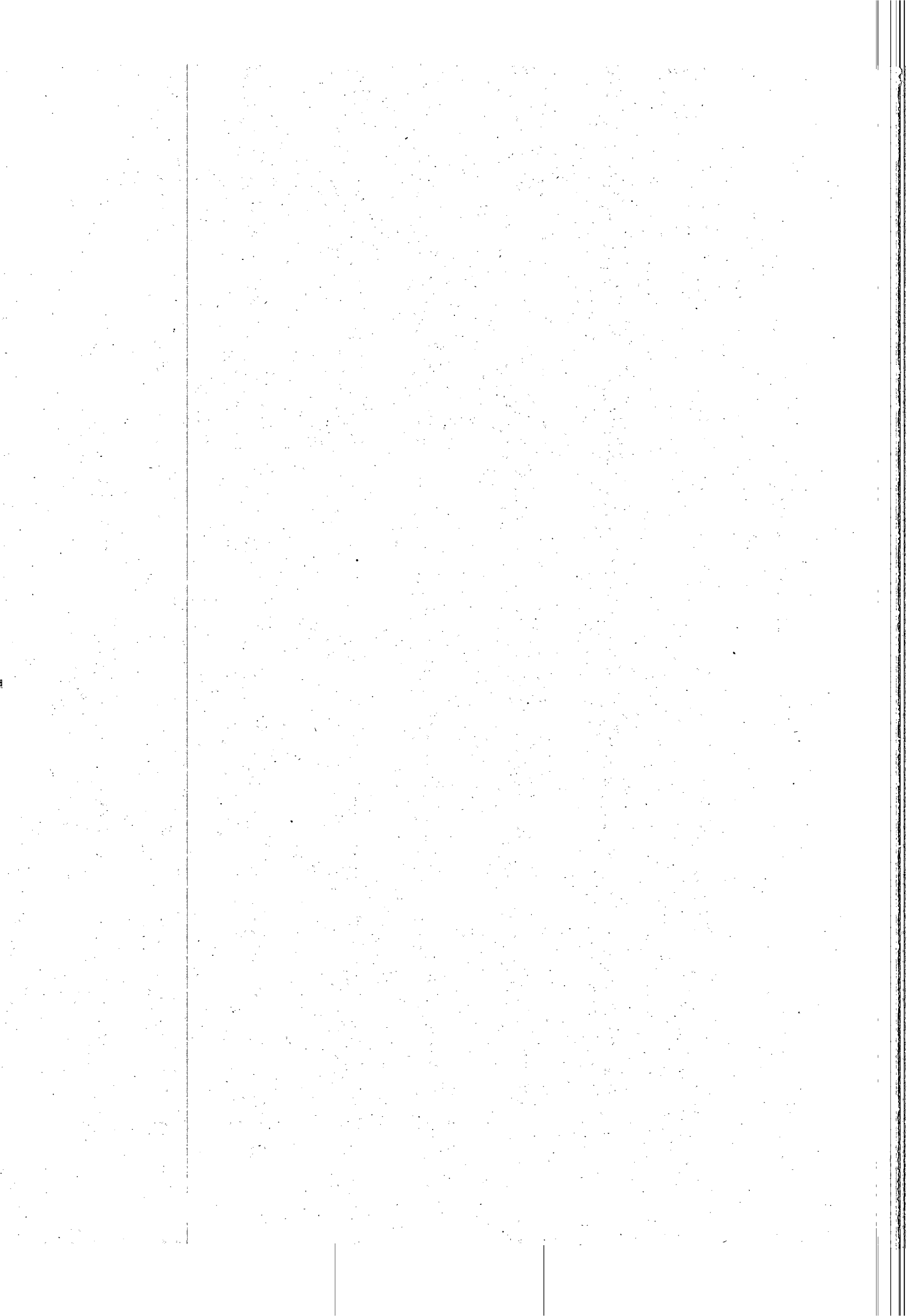
Position of local audits conducted during the year

Test check of the records of 319 (Revenue 280 + Expenditure 39) units of sales tax/Value Added Tax, State Excise, Stamp Duty and Registration fee, Motor Vehicles, Goods and Passengers and other Departmental offices conducted during the year 2014-15 showed under assessment/short levy/loss of revenue aggregating to ₹ 2,677.30 crore in 3,89,086 cases. During the course of the year, the Departments concerned accepted underassessment and other deficiencies of ₹ 394.96 crore involved in 5,993 cases which were pointed out in audit during 2014-15. The Departments collected ₹ 6.62 crore in 201 cases during the 2014-15.

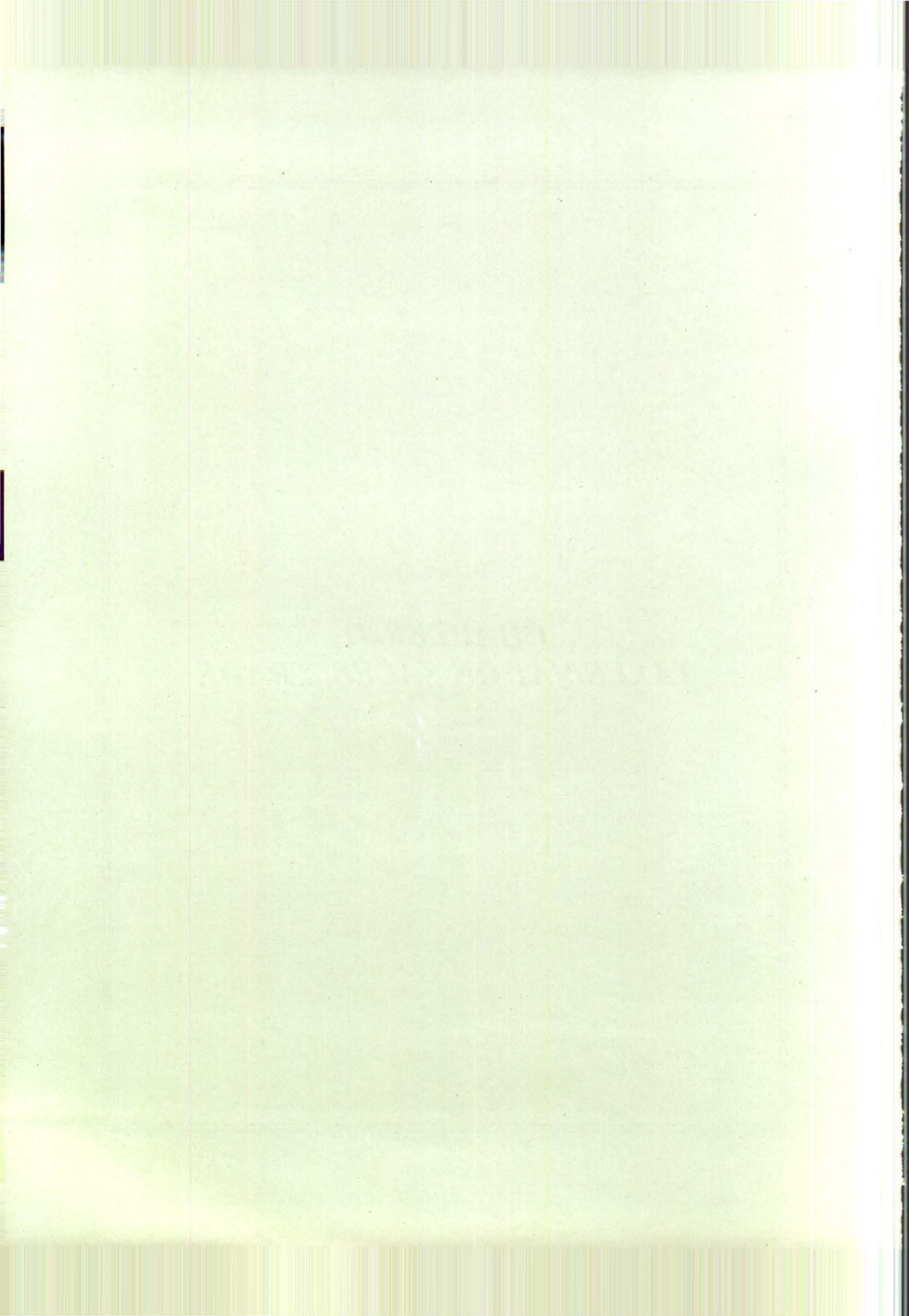
1.12 Coverage of this Report

This Report contains one Performance Audit on “**System of Assessment under VAT**” and 23 paragraphs involving financial effect of ₹ 407.87 crore.

The Departments/Government have accepted audit observations involving ₹ 387.46 crore out of which ₹ 5.75 crore had been recovered in eight paragraphs. These are discussed in succeeding Chapter II to VI.



CHAPTER-II
TAXES/VAT ON SALES, TRADE



CHAPTER II: TAXES/VAT ON SALES, TRADE

2.1.1 Tax administration

Sales Tax/Value Added Tax (VAT) laws and rules framed thereunder are administered at the Government level by the Additional Chief Secretary (Excise and Taxation). The Excise and Taxation Commissioner (ETC) is the head of the Excise and Taxation Department who is assisted by nine Additional ETC, 10 Joint ETCs, 50 Deputy ETCs and 203 Excise and Taxation Officers (ETOs). They are assisted by Excise and Taxation Inspectors and other allied staff for administering in the relevant Tax laws and rules.

2.1.2 Results of audit

In 2014-15, test check of the records of 41 (Revenue units: 32 and expenditure unit: 9) relating to VAT/Sales tax assessments and other records showed underassessment of tax and other irregularities involving ₹ 2,328.72 crore, in 1,438 cases, which fall under the following categories in **Table 2.1**.

Table-2.1

(₹ in crore)			
Sr. No.	Categories	Number of cases	Amount
1	Performance Audit on "System of Assessment under VAT"	1	310.48
2.	Underassessment of Tax	723	379.84
3.	Acceptance of defective statutory 'Forms'	52	7.05
4.	Evasion of tax due to suppression of sales/purchase	67	14.72
5.	Irregular/Incorrect/Excess allowance of ITC	168	28.41
6.	Other irregularities	427	1,588.22
	Total	1,438	2,328.72

During the year, the Department accepted underassessment and other deficiencies amounting to ₹ 308.00 crore in 83 cases, out of which ₹ 290.74 crore involved in 11 cases were pointed out during the year and the rest in earlier years. The Department recovered ₹ 1.14 crore in 42 cases, out of which ₹ 0.13 crore involved in nine cases relates to the year 2014-15 and the rest to earlier years.

One Performance Audit on "System of Assessment under VAT" and other important cases involving tax effect of ₹ 327.94 crore are discussed in the following paragraphs:

2.2 System of Assessment under VAT

2.2.1 Highlights

- Absence of provision for finalisation of assessments besides cancellation of registration certificate led to non realisation of revenue of ₹ 17.52 crore in two cases.

(Paragraph 2.2.8)

- Failure of the Department to put in place a system of exchange of inter departmental data base from unregistered works contractors resulted in non realisation of tax of ₹ 35.66 crore besides penalty of ₹ 35.66 crore in 605 cases.

(Paragraph 2.2.9)

- Incorrect application of rate of tax of four/five *per cent* on unclassified items valuing ₹ 235.50 crore, against the applicable rate of 12.5 *per cent*, resulted in underassessment of tax of ₹ 14.98 crore, in 49 cases, besides irregular refund of ₹ 92 lakh.

(Paragraph 2.2.11.1)

- Assessing Authorities (AAs) allowed nil/concessional rate of tax on sale/transfer of goods against fake declaration forms C, F and H, which resulted in non levy of tax of ₹ 4.41 crore and penalty of ₹ 13.23 crore in 16 cases.

(Paragraph 2.2.11.2)

- Assessing Authorities levied the differential amount of tax for not submitting the proof of movement of goods sold on C Forms and submitting false returns/VAT C-4 certificates but failed to levy mandatory penalty of ₹ 18.07 crore in 13 cases.

{Paragraphs 2.2.11.3 (i) and (ii)}

- Assessing Authorities had wrongly calculated carry forward of tax, deduction of tax concession and did not levy interest and surcharge of ₹ 55 crore in 90 cases.

(Paragraph 2.2.11.4)

- Despite issue of instructions/guidelines on March 2006/February 2007/ July 2013 regarding preparation of check lists, obtaining accounts of declaration forms, proof of payment of tax, cross verification of sales/purchases and checking of movement of goods, the same were not being followed by the AAs while scrutinizing the cases.

(Paragraph 2.2.12.2)

- Provisions relating to levy of penalty for non-filing of returns, obtaining refund application in proper proforma (VAT A-4), mentioning the nomenclature of the items sold/purchased in Form 'C', accepting complete C-4, VAT D-2/H Forms, were not complied with. Further, non-maintenance of demand and collection register, late serving of assessment orders/demand notices and delay in re-assessment of cases, resulted in short realisation of tax of ₹ 16.46 crore.

{Paragraph 2.2.12.2(a-e) and 2.2.12.3}

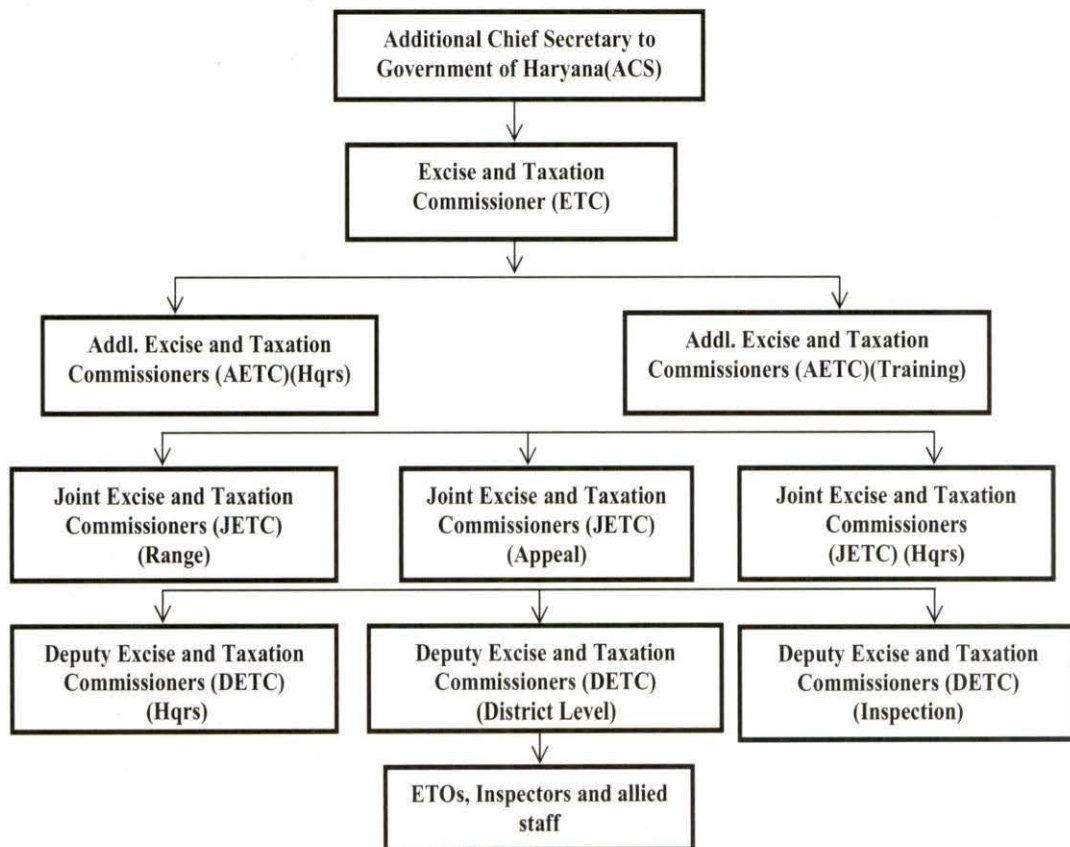
2.2.2 Introduction

Government of Haryana introduced Value Added Tax (VAT) with effect from April 2003. The Haryana Value Added Tax (HVAT) Act, 2003 and Rules made thereunder (HVAT Rules, 2003) govern levy and collection of value added tax (VAT) in Haryana at every point of sale. VAT is a multi-stage tax levied at each stage of the value addition chain, with a provision to allow input tax credit (ITC) on tax paid at an earlier stage, which can be appropriated against the VAT liability on subsequent sale. VAT constitutes major portion of State revenue. Assessment of tax has a direct bearing on the tax collection and quality of tax administration. Criteria for assessment of cases have been fixed by State Government.

2.2.3 Organisational Set up

The ETC, Haryana is responsible for the control and implementation of the Act and Rules at Departmental level and Additional Chief Secretary (ACS) to Government of Haryana, Excise and Taxation Department at Government level. The ETC is assisted by nine AETCs, JETCs, DETCs at Headquarters as well as district level, ETOs, Taxation Inspectors and other officers/officials.

Organogram of Excise and Taxation Department



2.2.4 Audit Objectives

The performance audit was conducted to assess whether:-

- the assessment criteria has been prescribed by State Government for selection of cases, if so, the selection was made as per the prescribed criteria;
- the assessments are done according to provisions of the Act, Rules and orders; and
- there exists an adequate system of internal control mechanism in the department.

2.2.5 Scope and Methodology

Out of 23 Deputy Excise and Taxation Commissioners (Sales Tax) {DETC (ST)} offices in the State, the records relating to assessments framed during the period 2009-10 to 2013-14 in eight DETC (ST)¹ offices were test checked between December 2014 and May 2015 which were selected on the basis of probability proportional to size method with replacement. Besides this, results of checking of refunds issued during 2012-13 to 2014-15 in respect of 11 DETC (ST)² offices and cases noticed during audit of other DETC (ST) offices have also been included in the Performance Audit. As desired by the department during entry conference, some cases assessed during 2014-15 have also been test checked under the new scrutiny criteria³.

An entry conference was held (January 2015) with the Additional Chief Secretary (ACS) to Government of Haryana, Excise and Taxation Department wherein audit objectives, audit criteria and methodology adopted for selection of districts were explained/discussed. The draft Performance Audit Report was sent for comments to the Department and Government in August 2015. An exit conference was held on 28 October 2015 with the ACS to Government of Haryana, Excise and Taxation Department, ETC, AETCs and other officers. Further, a discussion was also held on 26 November 2015. The views of the Department/Government wherever received have been appropriately incorporated in the Performance Audit. We acknowledge the co-operation of Excise and Taxation department in providing necessary information and records for facilitating audit.

¹ Ambala, Faridabad (West), Gurgaon (West), Jagadhri, Jhajjar, Jind, Sirsa and Sonipat.

² Ambala, Faridabad (East), Faridabad (West), Fatehabad, Gurgaon (East), Gurgaon (West), Kurukshetra, Kaithal, Karnal, Sirsa and Sonipat.

³ To streamline the work and make scrutiny assessment effective the department reduced (16 July 2013) the number of scrutiny cases to 5000 after excluding certain categories as given in Rule 27 of HVAT Rules.

2.2.6 Audit Criteria

The audit criteria were derived from the following sources:

- HVAT Act and Rules, 2003 and amendments made there under;
- CST Act, 1956 and the Rules framed there under;
- Orders/notifications issued by the Government/ Department from time to time; and
- Judgments/orders of the Hon'ble Courts/Tribunal.

Systems deficiencies

2.2.7 Computerisation

Introduction of VAT envisaged computerisation of tax records, registration details and issue of declaration forms etc. for better tax administration. It was noticed in audit that even a minimum level of computerisation did not exist within the department even after 12 years of introduction of VAT in the State. Computerisation in the Department is limited to administrative work, maintaining database of dealers, contractors, and traders etc, whereas the primary work relating to assessment i.e. verification of sale/purchase transactions, tax deposited, detect invalid ITC etc. were being done manually through issuing letters to other districts/States. As a result, ETC Haryana has to issue instructions in March 2006 and July 2013 for manual cross verification of all purchase/sale transactions totaling more than ₹ one lakh from a single VAT dealer in a year. This could have been avoided if a computerised system had been introduced for uploading of information relating to sales/purchase, issue of declaration forms and cancellation of registration certificates etc., to verify the genuineness of transactions/declaration forms through connectivity to national network Tax Information Exchange System (TINXSYS). Lack of such computerised system has restricted the Department in effective tax management and administration. ***The issue was also pointed out in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2014.***

During test check of records of offices of eight DETCs (ST)⁴ between December 2014 and May 2015, it was noticed that in 77 cases, benefit of ITC of ₹ 40.59 crore on purchase of ₹ 740.32 crore from VAT dealers was allowed during the years 2009-10 to 2013-14 without cross verification of sale/purchase transactions.

Though computerisation was essential after introduction of VAT, the departmental machinery failed to dispose of the cases promptly, locate bogus/non-existing dealers, invalid sale/purchase transactions, verify tax deposited, detect fraudulent claim of ITC and bogus forms etc as discussed in succeeding paragraphs, primarily due to inadequate computerisation.

During exit conference, the department stated that the work on computerisation is going on and would be completed shortly.

⁴ Ambala, Faridabad (West), Gurgaon (West), Jagadhri, Jhajjar, Jind, Sirsa and Sonapat.

2.2.8 Absence of provision for finalisation of assessment besides cancellation of Registration Certificate (RC)

Rule 14 of HVAT Rules, provides for procedure of cancellation of RC and the dealer is required to surrender RC, used and unused declaration forms obtained from the department along with application for cancellation. However, there was no provision in the Act regarding finalisation of assessment besides cancellation of RC.

During test check of records of the office of DETC (ST) Sirsa in April 2015, it was noticed that two dealers closed down their business w.e.f. 31 March 2014 and 1 November 2014 respectively and applied for cancellation of RC (April 2014/November 2014). The AA cancelled the RCs (November 2014/February 2015) without getting the unused declaration forms surrendered or finalising the assessments. It was further noticed that during 2013-14, the dealers had filed their returns involving turnover of sale of Cigarettes worth ₹ 83.45 crore. Non finalisation of assessments besides cancellation of RCs resulted in non realisation of tax of ₹ 17.52 crore (at the rate of 21 per cent). Had the provision for finalisation of assessments besides cancellation of RC been made, the amount of ₹ 17.52 crore could have been recovered from the dealers.

During exit conference, the department admitted the audit observation and stated that assessment would be finalised at the earliest possible and necessary provision would be made in the Act. The department also stated that instructions would be issued to the assessing authorities in due course.

2.2.9 Non registration of works contractors

Under Section 48 of HVAT Act the assessing authority may call for information/database from other departments/Corporation/persons relevant to any proceedings or useful for tax administration and Section 16 provides for levy of tax and penalty equivalent to tax determined during assessment of unregistered dealers.

During test check of records of offices of five DETCs (ST)⁵, it was noticed that the department had not established any system for cross verification of information available with other departments to detect unregistered dealers and evasion of tax.

Further, audit cross verified the information collected from 11 offices⁶ and found that 605 unregistered dealers (Works Contractors) had exceeded the threshold limit of taxable turnover for registration as they had received payments for execution of works contracts during 2009-10 to 2013-14, but did not get themselves registered under HVAT Act. Failure to put in place a system for collection of information from other departments, which would help facilitate the process of identifying, registering and assessing unregistered

⁵ Faridabad (West), Gurgaon (West), Jagadhri, Jhajjar and Sonipat.

⁶ Municipal Council/Corporation (MC): Bahadurgarh, Faridabad, Gurgaon, Sonipat, Yamunanagar; Executive Engineer (XEN), Haryana State Marketing Board (HSAMB): Bahadurgarh, Faridabad, Gurgaon, Sonipat, Yamunanagar and XEN Housing Board: Gurgaon.

dealers which resulted in non realisation of tax of ₹ 35.66 crore besides penalty of ₹ 35.66 crore.

During exit conference, the department admitted the audit observation and stated to make registration of works contractors mandatory in consultation with other contractee departments.

2.2.10 Selection criteria of scrutiny cases

(i) The State Government has prescribed the criteria for assessment under Rule 27 read with Section 15 of HVAT Act. Cases are to be taken for scrutiny having gross turnover exceeding ₹ 500 lakh in a year, claim of ITC exceeding ₹ 10 lakh, claim of refund exceeding ₹ three lakh, claim of sales made in the course of interstate trade and export of goods exceeding ₹ 25 lakh in a year, cases of industrial units availing any tax concession, cases of fall in gross turnover, claim of sale/purchase or consignment of goods not matching with the accounts, cases based on definite intelligence about evasion of tax and cases of cancellation of RC etc. All other cases will be deemed to have been assessed under Section 15 (1) of the Act.

In eight DETC (ST)⁷ offices, 103020 cases were selected as per criteria for scrutiny for the assessment years 2006-07 to 2010-11 and assessed during 2009-10 to 2013-14, as detailed below:

Sr. No	Categories	2009-10 (2006-07)	2010-11 (2007-08)	2011-12 (2008-09)	2012-13 (2009-10)	2013-14 (2010-11)	Total
1.	GTO More than ₹ 500 lakh	1,913	2,087	1,704	2,699	2,935	11,338
2.	Claim of Input Tax exceeding ₹ 10 lakh in a year	1,522	1,492	1,415	1,896	2,177	8,502
3.	Claim of Refund exceeding ₹ three lakh	84	27	22	62	60	255
4.	ISS exceeding ₹ 50 lakh in a year	2,474	2,790	2,225	3,343	3,780	14,612
5.	More than 20% Fall in GTO or in payment of tax	2,341	1,989	1,798	1,587	1,455	9,170
6.	Dealer engaged in trading of Iron and steel	769	551	364	881	799	3,364
7.	Non completion of returns	3,672	4,052	5,047	3,677	4,807	21,255
8.	Others	5,102	5,612	10,520	6,327	6,963	34,524
Total		17,877	18,600	23,095	20,472	22,976	1,03,020

Out of 1,03,020 scrutiny cases, 2,275 cases were test checked between December 2014 and May 2015 from all the categories and findings are incorporated in the succeeding paragraphs:

(ii) Reduction in number of scrutiny cases

Upto the assessment year 2010-11, an average of 50,000 cases were being assessed under scrutiny every year. To streamline the work and make scrutiny assessment effective, the department decided (16 July 2013) to reduce the

⁷ Ambala, Faridabad (West), Gurgaon (West), Jagadhri, Jhajjar, Jind, Sirsa and Sonipat.

number of cases for scrutiny by excluding categories viz.; (a) gross turnover (GTO) exceeding five hundred lakh rupees in a year, (b) claim of input tax exceeding ten lakh rupees in a year, (c) claim of sales made in the course of inter-State trade and commerce or in the course of export of goods out of the territory of India or in the course of import of goods into the territory of India exceeding twenty five lakh rupees in a year, (d) cases selected at random, (e) cases in which the dealer fails to complete the returns in material particulars after being given an opportunity for the same and cases of cancellation of RC. State Government capped the maximum number of cases for scrutiny to 5,000 annually for whole state, besides the AAs could select 10-15 cases of its choice. District-wise cases were to be selected by a committee headed by DETC of each district. Besides, each assessing authority could select 10-15 cases of his choice. Further, ITC was to be allowed after 100 per cent verification upto the stage of actual payment of tax. It was emphasised that the scrutiny cases were to be dealt with strictly in accordance with instructions dated 14 March 2006 and 16 July 2013.

Audit observed that selection criteria was not proper because the selection could not be fair as the selection of 10-15 cases was to be made by AAs as per their choice and a committee headed by DETC of each district. Thus, it was left at the discretion of AAs and DETCs to select or not to select any case. No objective criteria were laid down to enable the selection and this pick and choose method was fraught with risk of misuse of discretion. Scrutiny of 105 cases of offices of six DETCs (ST)⁸ showed no effectiveness and improvement in quality of scrutiny assessment as per irregularities tabulated below:-

Irregularities in assessment of scrutiny cases assessed during 2014-15

Sr. No	Name of DETC	Tax/interest			Nature of irregularities/Remarks
		Leviable	Levied	Short levied	
1	Jagadhri	12.20	0	12.20	In one case ₹ 12.20 lakh were deposited voluntarily against due tax for the assessment year 2012-13 and the same amount of tax deposited on same bank challans was found adjusted against the tax assessed for the assessment year 2011-12.
2	Gurgaon (West) and Jagadhri	29.26	0	29.26	In three cases {Gurgaon (West) (1); Jagadhri (2)} interest of ₹ 29.26 lakh was not levied on short payment of tax.
3	Gurgaon (West) and Jagadhri	159.87	131.56	28.31	In three cases tax of ₹ 28.31 lakh was short assessed due to application of incorrect rate of tax.
4	Jagadhri	3.82	0	3.82	Surcharge at the rate of five per cent of tax was leviable w.e.f. 2 April 2010. The surcharge was not levied in two cases.
5	Gurgaon (West), Jagadhri and Sonipat	90.58	0	90.58	In seven cases, the AAs had short reversed ITC on stock transfer/tax free sale.
6	Jagadhri	39.52	0	39.52	In two cases, the AA failed to levy tax on miscellaneous income of ₹ 1.67 crore and surrendered income of ₹ 1.35 crore.
7	Ambala, Faridabad (West), Gurgaon (West), Jagadhri, Jhajjar and Sonipat	0	0	0	Despite clear guidelines/instructions for 100 per cent verification of purchases/sales upto the stage of actual payment of tax, the AAs allowed benefit of ITC in 41 cases without cross verification of purchases/sales.

⁸ Ambala, Faridabad (West), Gurgaon (West), Jagadhri, Jhajjar and Sonipat.

Under the earlier system, out of 2275 test checked cases, audit observations were raised in 182 cases (eight *per cent*) whereas out of 105 test checked cases (pertaining to assessment year 2011-12 assessed during 2014-15), audit observations were raised in 48 cases (46 *per cent*). Thus, even after reducing the number of assessment from 50,000 to 5000, no improvement was noticed in the assessment. Moreover, audit observations noticed in the new system were similar to the observations in the previous system of selection.

During exit conference, the department agreed to issue instructions to all the field offices to cross verify the purchases/sales and payment of tax in all the cases.

Compliance deficiencies

The AAs were required to assess the cases with reference to extant rules and regulations. Scrutiny of records showed that while finalising assessments provisions of the Acts/Rules were not adhered to as discussed below:

2.2.11.1 Underassessment/irregular refund of tax due to application of incorrect rate of tax

The rates under HVAT Act, 2003 have been prescribed as per Schedule A to G. However, under Section 7(1) (a) (iv) of the Act, any commodity other than the commodities classified in any of the schedules, is taxable at the rate of 12.5 *per cent* w.e.f. 1 July 2005. Surcharge at the rate of five *per cent* of the tax was also leviable w.e.f. 2 April 2010. Further interest is also leviable under Section 14 (6) in case of default of payment of tax.

Under Section 20 of the Act refund of Input tax shall be admissible to a VAT dealer in respect of the tax relating to the goods which have been sold in the course of export of goods out of the territory of India or on account of difference of rate of tax on the goods sold at lower rate within state or inter-state trade or commerce.

Audit noticed (between January 2013 and May 2015) that in 49 cases in 16 DETCs (ST)⁹, the dealers sold unclassified items i.e. Building Materials, Machinery Parts, Paneer, Hospital equipments, Soap, Noodles etc. valuing ₹ 235.50 crore between 2008-09 and 2012-13. While finalising assessment between February 2012 and December 2014, the AAs levied tax at the rate of zero to four/five *per cent* instead of applicable rate of tax of four/five and 12.5 *per cent*. This resulted in underassessment of tax of ₹ 14.98 crore. In addition irregular refund of ₹ 92 lakh had been issued in seven cases.

During exit conference, the department admitted the audit observation in all the cases.

⁹ Ambala, Faridabad (East), Faridabad (West), Gurgaon (East), Gurgaon (West), Jagadhri, Jhajjar, Jind, Hisar, Kaithal, Karnal, Panchkula, Panipat, Palwal, Sirsa and Sonapat.

2.2.11.2 Underassessment due to allowing benefit against fake forms

Section 5 (3), 6 A and 8 (4) of the CST Act provides for levy of nil/concessional rate of tax on sales made against declaration forms H, F and C respectively. Under section 38 of HVAT Act penalty is leviable for submitting wrong documents to evade payment of tax.

Audit noticed that in nine DETCs (ST)¹⁰ offices, 16 dealers claimed (2006-07 to 2011-12) concessional rate of tax on sale/transfer of goods against declaration forms C, F and H valuing ₹ 37.91 crore and the same were allowed by the AAs while finalising assessments between September 2009 and March 2014 without verification of transactions/forms as required vide instructions issued in March 2006. On cross verification by audit, from TINXSYS and the issuing offices, forms valuing ₹ 37.91 crore involving tax of ₹ 4.41 crore were not found issued by the said offices. Thus, allowing benefit against fake C, F and H declaration forms resulted in under assessment of tax of ₹ 4.41 crore besides penalty of ₹ 13.23 crore leviable under Section 38 of HVAT Act.

During exit conference, the department admitted the audit observation and assured to take necessary action as per provisions of the Act.

2.2.11.3 Evasion of tax due to suppression of sales/purchases and failure to levy penalty thereon

Section 38 of HVAT Act provides that if any dealer maintains false accounts or submit wrong accounts, returns or document to evade payment of tax the AA may levy penalty (three times) in addition to the tax evaded/avoided.

(i) Audit noticed (between March 2011 and December 2014) from the records of offices of DETCs (ST) Sirsa and Bhiwani that seven dealers of district Sirsa paid tax at concessional rate on sale against declaration in form C valuing ₹ 13.11 crore. On enquiry, the department found that actual movement of goods had not taken place. Consequently, the RA levied full rate of tax on the said sales and created additional demand of ₹ 2.49 crore but failed to levy penalty of ₹ 7.47 crore. Further, two dealers of district Bhiwani had suppressed the sale of ₹ 22.48 crore by undervaluing the goods sold. While finalising the assessment in March 2010, the AA levied tax on suppressed value of sale but failed to levy penalty of ₹ 8.43 crore and nothing was mentioned in the order for non-levy of the penalty.

(ii) Audit noticed (April 2015), that four dealers under DETCs (ST) Fatehabad, Faridabad (West) and Gurgaon (West) had claimed benefit of ITC valuing ₹ 72.28 lakh on invalid purchases of ₹ 10.51 crore by submitting false returns/VAT C-4 certificates during 2005-06 to 2010-11. While finalising assessment between March 2012 and March 2014, the AAs disallowed the claim of ITC but failed to levy penalty of ₹ 2.17 crore.

¹⁰ Ambala, Faridabad (East), Gurgaon (West), Jhajjar, Jind, Hisar, Karnal, Sirsa and Jagadhri.

(iii) Audit noticed that six dealers under four DETCs (ST)¹¹, had suppressed the sales/purchases valuing ₹ 22.37 crore and evaded the payment of tax of ₹ 1.25 crore. While finalising assessment between March 2011 and November 2013, the AAs failed to levy tax of ₹ 1.25 crore besides penalty of ₹ 3.75 crore even though the information of suppression was available on the file.

During exit conference, the department admitted the audit observation and assured to take action as per provisions of the Act.

2.2.11.4 Underassessment due to non levy of tax/interest/surcharge and allowing excess benefit of tax concession

Under Section 8 of HVAT Act, a registered dealer is entitled to benefit of ITC on purchase of goods after payment of tax from VAT dealers of Haryana. ITC involved in closing stock at the end of the year is carried forward to next year. Input tax (carried forward) and closing stock should commensurate to each other.

Government clarified that w.e.f. 8 April 2011 tax on Knitted & Embroidered Fabrics is leviable at the rate of 12.5 *per cent*. Pipes of all varieties are taxable at the rate of four *per cent* upto 14 February 2010 and five *per cent* thereafter. Section 14(6) of HVAT Act provides for levy of interest for late/short payment of tax. The Government had clarified on 10 February 2014 that the contractors who had opted to pay lump sum in lieu of tax are also liable to pay surcharge under Section 7A. Under Section 61 read with Rule 69(2) of HVAT Rules an industrial unit if it makes payment of fifty *per cent* of tax due along with returns will be treated as full payment of tax and benefit availed.

Audit noticed that the AAs had wrongly calculated the carry forward of tax, allowed wrong deduction of tax free sale, excess benefit of tax concession and did not levy interest and surcharge of ₹ 55 crore besides irregular refund of ₹ 0.04 crore as tabulated below:

Sr. No.	Number of DETCs	Number of dealers	Assessment years	Amount	Nature of irregularities
1	6 ¹²	54	2008-09 to 2013-14	₹ 20.48 crore	Due to submission of wrong accounts by the dealers the AA calculated wrong carry forward of tax and failed to levy tax and penalty u/s 38. This resulted in non levy of tax and penalty of ₹ 20.48 crore.
2	5 ¹³	6	2010-11 to 2012-13	₹ 3.47 crore	The AA allowed wrong deduction of tax free sale and failed to levy tax on sale of Embroidered Fabrics and HDPE pipes resulting in non levy of tax of ₹ 3.47 crore.

¹¹ Ambala, Faridabad (East), Sirsa and Sonipat.

¹² Faridabad (East), Fatehabad, Kaithal, Karnal, Kurukshetra and Sonipat.

¹³ Ambala, Gurgaon (West), Hisar, Jhajjar and Sonipat.

Sr. No.	Number of DETCs	Number of dealers	Assessment years	Amount	Nature of irregularities
3	8 ¹⁴	14	2006-07 to 2011-12	₹ 4.05 crore	The AAs failed to levy interest on short payment of tax {u/s 14 (6)} and late payment of additional demand {u/s 23 (1)} resulting in non levy of interest of ₹ 4.05 crore.
4	8 ¹⁵	15	2010-11 to 2011-12	₹ 0.31 crore	The AAs failed to levy surcharge of ₹ 0.31 crore and allowed irregular refund of ₹ 0.04 crore additionally.
5	1 ¹⁶	1	2007-08 and 2008-09	₹ 26.69 crore	The AA accounted for fifty per cent of benefit of tax concession against hundred per cent of ₹ 53.38 crore resulting in excess benefit of tax concession of ₹ 26.69 crore to the dealer.
	Total	90		₹ 55.00 crore	

During exit conference, the department admitted the audit observations and assured to take action as per provisions of the Act.

2.2.11.5 Underassessment/Excess refund due to non/incorrect reversal of ITC

Under Section 8 (1) of HVAT Act, if a dealer uses the goods (VAT paid) in manufacturing of taxable/tax-free goods or partly disposes of the goods manufactured otherwise than by way of sale, input tax credit is allowable on pro-rata basis.

(i) Audit noticed that during 2008-09 to 2011-12, 28 dealers under 10 DETCs (ST)¹⁷, purchased goods after payment of VAT of ₹ 1,864.41 crore and manufactured taxable & tax free goods or disposed of manufactured goods otherwise than by way of sale. Accordingly, ITC of ₹ 15.49 crore was to be reversed proportionately against which the AAs, while finalising assessments between November 2011 and July 2014 reversed ITC of only ₹ 9.88 crore. This resulted in less reversal of ITC and inadmissible refund of ₹ 5.61 crore.

(ii) ITC is admissible on purchases made from VAT dealers within the state after payment of VAT paid to the State by the selling dealers. The purchases are adopted as per the books of accounts/returns and reconciliation statement filed by the dealers.

¹⁴ Ambala, Faridabad (West), Gurgaon (East), Gurgaon (West), Jind, Rohtak, Sirsa and Sonipat.

¹⁵ Ambala, Jhajjar, Jagadhri, Faridabad (East), Kaithal, Karnal, Kurukshetra and Sirsa.

¹⁶ Gurgaon (East).

¹⁷ Ambala, Faridabad (West), Fatehabad, Gurgaon (East), Gurgaon (West), Jind, Kaithal, Karnal, Sirsa and Sonipat.

Audit noticed that five dealers under four DETCs (ST)¹⁸, claimed ITC of ₹ 1.40 crore as per annual return (R-2) filed by the dealers, but while finalising assessment between October 2010 and March 2014, the AAs allowed ITC of ₹ 2.36 crore on the basis of certificate of purchases (VAT/C 4) against admissible ITC of ₹ 1.40 crore which resulted in excess benefit of ITC of ₹ 96 lakh.

(iii) As per guidelines issued by ETC on 21 March 2013, ITC on evaporation loss of Petrol/Diesel was to be reversed.

Audit noticed that 98 dealers under six DETCs (ST)¹⁹ purchased Petrol and Diesel during 2009-10 to 2011-12 and 3.16 lakh liters Petrol and 6.23 lakh liters Diesel valuing ₹ 3.63 crore was claimed as evaporation loss by the dealers. While finalising assessments between March 2013 and March 2014, the AAs had not reversed the ITC of ₹ 0.50 crore. This resulted in excess benefit of ITC of ₹ 0.50 crore on evaporation loss of ₹ 3.63 crore.

During exit conference, the department admitted the audit observation and assured to take action as per provisions of the Act/guidelines.

2.2.11.6 Underassessment/Irregular refund due to misuse of form VAT D-1/VAT D-2

Under Rule 21 of HVAT Rules, a VAT dealer may purchase goods against Form VAT D-2 (without payment of tax) for exporting these out of India. Further under section 7(5) of HVAT Act, if any dealer fails to make use of goods purchased for the specified purpose, additional tax and penalty not exceeding to one and a half times of the tax, is leviable.

(a) Audit noticed that 11 dealers under six DETCs (ST)²⁰, purchased Paddy and utensils during 2008-09 to 2012-13 valuing ₹ 196.15 crore against Form VAT-D2 for the purpose of exporting them, but failed to do so and sold the said Rice/Utensils to the local dealers for further export against VAT-D2, valuing ₹ 79.28 crore thereby becoming liable for penal action under Section 7 (5). However, while finalising assessments between March 2012 and August 2014, the AAs allowed the deduction of export against VAT D-2 and failed to levy additional tax of ₹ 3.58 crore and penalty of ₹ 5.37 crore leviable under Section 7 (5). This resulted in irregular refund of ₹ 3.08 crore.

(b) Audit noticed that eight dealers of Kaithal and Karnal during 2009-10 to 2012-13 purchased Paddy valuing ₹ 254.97 crore against form VAT D-2 for export of Rice out of India but Paddy valuing ₹ 161.75 crore was still lying in stock at the end of the year. The dealer had also exported Rice out of Paddy/Rice purchased after payment of VAT and were allowed refund of ₹ 5.75 crore. The dealers were required first to export Rice out of Paddy/Rice purchased against form VAT D-2 and then out of VAT paid Paddy/Rice. Due to non compliance, the dealer was liable for penal action under Section 7(5) of HVAT Act. While finalising assessments (June 2012 and July 2014), the AAs failed to levy additional tax of ₹ 7.54 crore besides leviable penalty of

¹⁸ Ambala, Gurgaon (West), Jhajjar and Jind.

¹⁹ Fatehabad, Hisar, Jind, Kurukshetra, Narnaul and Sirsa.

²⁰ Ambala, Kaithal, Karnal Kurukshetra, Sirsa and Sonipat.

₹ 11.31 crore, as the copies of the purchase orders from the foreign buyers were not found on record and further allowed irregular refund of ₹ 5.75 crore.

During exit conference, the department admitted the audit observation and assured to take action as per provisions of the Act.

2.2.11.7 Non-consideration of stock of Paddy/Rice purchased against form VAT-D2

Audit noticed that nine dealers under three DETCs (ST) (Kaithal, Karnal and Kurukshetra) purchased Paddy/Rice during 2010-11 to 2012-13 against form VAT D-2 and also after payment of VAT. The dealers exported Rice out of VAT D-2 purchases and VAT paid purchases. The dealers claimed and were allowed refund of ₹ 4.31 crore against export of Rice out of VAT paid purchases. The dealers had closing stock of purchases made against VAT D-2 Forms valuing ₹ 169.10 crore involving tax of ₹ 8.14 crore (presumed) and VAT paid stock valuing ₹ 69.87 crore involving tax of ₹ 3.12 crore. The dealers were required to export the Rice out of VAT D-2 stock first. Accordingly, while allowing refund, tax (presumed) involved in VAT D-2 stock was to be retained, as the copies of the purchase orders from the foreign buyers were not found on record. While finalising assessments between June 2012 and December 2014, the AAs did not retain the presumed tax involved in Paddy of VAT D-2 stock which resulted in excess refund of ₹ 3.14 crore.

During exit conference, the department admitted the audit observation and assured to get the cases re-examined.

2.2.11.8 Non levy of penalty under Section 10A of CST Act

Under Section 8 (3) of CST Act, a registered dealer can purchase goods against declaration Form C for resale, use in manufacturing/processing/packing of goods for sale etc., but cannot purchase goods for self use i.e. for any purpose other than specified under the said section. Further, Section 10 A provides for levy of penalty not exceeding one and a half times of the tax for non-use of the goods purchased for specified purposes.

Audit noticed cases of dealers under DETCs (ST) {Gurgaon (West), Hisar and Jhajjar}, who had purchased goods valuing ₹ 2.19 crore involving tax of ₹ 0.28 crore during the years 2009-10 to 2011-12, at concessional rate of tax against Form C. Two dealers (Hotelier and manufacturer) had purchased building material and one dealer (contractor) had purchased Truck. These dealers were not entitled to purchase these goods against Form C as the said goods were not used for the purpose for which the dealers were registered. While finalising assessments between November 2012 and March 2014, the AAs failed to levy penalty of ₹ 42 lakh for misuse of forms C.

During exit conference, the department admitted the audit observation and assured to get the cases re-examined.

2.2.11.9 Excess refund due to allowing deduction against invalid documents

Section 5 (3) of the CST Act, provides that the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India shall also be deemed to be in the course of such export, if such last sale or purchase took place after, and was for the purpose of complying with the agreement or order for or in relation to such export.

Audit noticed that during 2009-10 to 2012-13, 18 dealers under three DETCs (ST) (Kaithal, Karnal and Kurukshetra) sold Rice valuing ₹ 112.10 crore to exporters of Rice to comply with the orders of Export. While finalising assessments between June 2012 and December 2014, the AAs allowed deduction of ₹ 28.34 crore under Section 5 (3) of CST Act against form VAT D-2. Documents of export submitted by the dealers along with form VAT D-2 were invalid because either the crop year of export of Rice did not tally with the crop year of sale of Rice or the export had already taken place or export was delayed by 5 to 7 months. Hence, allowing deduction against invalid documents resulted in excess refund of ₹ 1.39 crore.

During exit conference, the department admitted the audit observation and assured to get the cases re-examined.

2.2.11.10 Irregular refund to contractors/traders

As per Section 2 (ze) tax is leviable on material transferred in execution of works contract. Government fixed the value of Labour and Services at 25 per cent on 17 May 2010. Section 24 read with Rule 33 provides for deduction of TDS (WCT) and allowing benefit after due verification of payment from records.

Audit noticed from the records of assessment of works contractors and traders, in respect of 11 DETCs that tax was incorrectly calculated by applying formula without obtaining any evidence i.e. allowed excess deduction of labour and services, benefit of TDS without verification, refund against sale to self on C Form etc., in assessment and issue of irregular refund of ₹ 54.45 crore to contractors/dealers, as detailed below:-

Irregularities in issue of refund to works contractors and traders					(₹ in crore)
Sr. No.	No. of DETCs	No. of Contractors/dealers	Years of assessment	Nature of irregularities	Amount of irregular Refund allowed
1	10 ²¹	41	2006-07 to 2012-13	The AAs did not levy additional tax and penalty of ₹7.83 crore (₹ 3.13 tax + ₹ 4.70 penalty) against works contractors for misuse of VAT D-1 and allowed irregular refund of ₹ 5.83 crore.	5.83
2	6 ²²	22	2006-07 to 2012-13	The AAs levied tax on works contractors by formula worth ₹ 19.71 crore against leviable tax of ₹ 20.67 crore without obtaining any evidence of inclusion of tax in the gross receipts. This resulted in allowing irregular refund of ₹ 0.96 crore.	0.96

²¹ Ambala, Fatehabad, Gurgaon (West), Hisar, Jagadhri, Kaithal, Karnal, Kurukshetra, Panchkula and Sonipat.

²² Fatehabad, Gurgaon (East), Gurgaon (West), Kaithal, Karnal and Sirsa.

Irregularities in issue of refund to works contractors and traders					(₹ in crore)
Sr. No.	No. of DETCs	No. of Contractors/dealers	Years of assessment	Nature of irregularities	Amount of irregular Refund allowed
3	5 ²³	23	2008-09 to 2011-12	While framing the assessments of works contractors, the AAs allowed deduction of Labour and Services worth ₹ 414.13 crore against allowable deduction of ₹ 212.24 crore without mentioning any justification. This resulted in allowing excess deduction of ₹ 201.89 crore and irregular refund of ₹ 17.72 crore.	17.72
4	1 ²⁴	1	2010-11 to 2011-12	The AA allowed deduction of fuel of ₹ 3.06 crore against allowable deduction of ₹ 1.61 crore resulting in allowing excess deduction of ₹ 1.45 crore and consequent irregular refund of ₹ 0.13 crore.	0.13
5	10 ²⁵	34	2004-05 to 2012-13	The AA allowed benefit of TDS (WCT) of ₹ 19.80 crore without verification from Daily Collection Register resulting in irregular refund of ₹ 16.32 crore.	16.32
6	3 ²⁶	8	2009-10	The AAs allowed refund to traders which was not covered u/s 20 (2) of HVAT Act resulting in irregular refund of ₹ 0.42 crore.	0.42
7	1 ²⁷	1	2010-11	The AAs allowed refund to dealers who shown sale to self/branch against Form VAT D-1/C resulting in irregular refund of ₹ 3.54 crore.	3.54
8	9 ²⁸	79	2004-05 ²⁹ to 2013-14	The AAs failed to levy tax on surrendered income, miscellaneous income, DEPB, allowed wrong ITC on fuel and other invalid purchases, allowed ITC more than claimed in return VAT R-2 etc. and allowed irregular refund of ₹ 9.53 crore.	9.53
Total					54.45

During exit conference, the department admitted the audit observation (Sr. No. 1, 2 and 4 to 8) and assured to take action as per provisions of the Act. As regards Sr. No. 3, the department stated that deduction of labour in excess of 25 per cent can be allowed on the basis of proper accounts maintained by the contractor. However, the department assured to issue instructions to field offices for passing speaking assessment orders wherever deduction is allowed in excess of 25 per cent.

2.2.11.11 Irregular refund to contractors of DMRC

As per entry 3A of schedule B, with effect from 30 November 2006, no tax was leviable on goods sold to Delhi Metro Rail Corporation (DMRC) for use in Gurgaon Metro Corridor. Further, entry 3 of Schedule G was inserted on 6 April 2010 (with effect from 30 November 2006) and entry 3A of

²³ Ambala, Gurgaon (East), Gurgaon (West), Kaithal and Kurukshetra.

²⁴ DETC Kaithal.

²⁵ Ambala, Fatehabad, Gurgaon (West), Jind, Jagadhri, Kaithal, Kamal, Kurukshetra, Sirsa and Sonipat.

²⁶ Faridabad (East), Gurgaon (East) and Gurgaon (West).

²⁷ Gurgaon (East).

²⁸ Ambala, Faridabad (East), Faridabad (West), Gurgaon (East), Gurgaon (West), Kamal, Kurukshetra, Sirsa and Sonipat.

²⁹ The assessment of the dealer of Gurgaon (East) was finalised on 13 February 2008 but refund was issued on 24 June 2013 without recording any reasons for delay.

Schedule B was omitted simultaneously enabling the dealers to seek refund of tax paid on the purchase of goods sold to DMRC.

Audit noticed in DETC (ST) Gurgaon (East), that three contractors executed works contract for construction of Gurgaon Metro corridor during 2009-10 to 2011-12 and claimed refund of ₹ 2.22 crore. While finalising assessments between June 2012 and March 2013, the AAs allowed refund of tax to these contractors though the rates quoted by contractors were inclusive of tax. The refund of tax to the contractor was not in order as DMRC had already paid tax to the contractors through running bills. The benefit of tax concession if any, should have been passed on to the DMRC. Hence, no refund was allowable to the contractors. This resulted in irregular refund of ₹ 2.22 crore.

During exit conference, the department stated that entry in schedule G was inserted to allow refund to the contractors. However, the cases had been taken up in revision for further examination.

2.2.12 Internal control mechanism

Internal control is an integral process by which an organisation governs its activities to achieve its objectives effectively. An inbuilt internal control mechanism and strict adherence to codes and manuals provide reasonable assurance to the department about compliance of applicable rules, achieving reliability of financial reporting, effectiveness and efficiency in its operations.

2.2.12.1 Internal Audit

Internal Audit is a tool in the hands of Management to ensure that the prescribed systems are functioning well.

It was noticed that no internal audit of assessment cases was being done by the department.

During exit conference, the department stated to start internal audit of assessment cases in due course.

2.2.12.2 Monitoring

For administration and implementation of the Acts, effective monitoring mechanism is required in the department. Effective monitoring can be done through periodical reports, follow up action and inspection of field offices to ensure maintenance of assessment records in proper form.

Audit noticed that instructions/guidelines issued on March 2006, February 2007 and July 2013 regarding preparation of check lists, obtaining account of declaration forms, proof of payment of tax, cross verification of sales/purchases and checking of movement of goods were not being followed by the AAs while scrutinizing the cases. Further, audit noticed in eight DETCs (ST) that records of assessment cases was not being maintained properly. The irregularities such as non-maintenance of demand and collection register, late servicing of assessment orders and demand notices, delay in

re-assessment of cases and penalty for non filing of return etc., discussed in the following audit paragraphs are indicators of ineffective internal control mechanism.

(a) Non maintenance of Demand and Collection register (DCR) of returns (VAT G-8)

Rule 37 of HVAT Rules provides that the officer in charge of each district shall maintain DCR of returns in form VAT G-8 in respect of dealers registered under the Acts showing the returns filed, assessment framed and payment of tax/additional demand made etc.

Audit noticed in the offices of eight DETCs (ST)³⁰ that the DCR of returns (VAT G-8) was not maintained properly as details of returns filed, assessment framed and payments made were not found entered therein.

Further, in one case under the office of DETC (ST) Jagadhri, benefit of deposit of tax of ₹ 6 lakh pertaining to the year 2010-11 was allowed in assessment years 2010-11 and 2011-12. In two cases of DETC (ST) Ambala and Gurgaon (West) benefit of deposit of tax of ₹ 2.19 crore was allowed without verification from records. Further, it was noticed that amount of tax deposited was neither entered in VAT G-8 register nor in Demand and Collection Register of tax. This resulted in irregular benefit of tax of ₹ 2.25 crore.

During exit conference, the department admitted the audit observation and the ACS directed the department to maintain the said records properly.

(b) Late servicing of assessment orders and demand notices

As per instructions issued on 14 March 2006, copy of assessment order along with notice of demand was to be served to the dealer (s) within fifteen days of finalisation of assessment.

Audit noticed in 99 cases under DETC (ST), Faridabad (West) that AAs failed to serve copy of assessment orders and demand notices in time involving demand of more than ₹ one lakh each, which were served after delay ranging between 15 to 455 days. Non-monitoring at DETC level resulted in loss of interest of ₹ 1.46 crore as this amount cannot be recovered from the dealers, due to lapse on the part of the department.

During exit conference, the department admitted the lapse and stated to issue instructions for strict compliance of provisions of Act/Rules.

(c) Non examination of assessment cases by DETCs/JETCs

To have an effective internal control, the Department required monthly/quarterly statements to be furnished by the DETCs to ETC every month/

³⁰ Ambala, Faridabad (West), Gurgaon (West), Jagadhri, Jhajjar, Jind, Sirsa and Sonipat.

quarter. Out of the cases assessed by the AAs, the Department also prescribed the number of scrutiny cases to be checked by DETCs/JETCs.

There was nothing on record to prove that the DETCs/JETCs had examined the cases assessed by the AAs nor any report was sent to ETC. Thus, the internal control mechanism was weak.

During exit conference, the department accepted the audit observation and stated to issue directions to strengthen the internal control.

(d) Loss of revenue due to delay in re-assessment of the cases

Section 17 of the HVAT Act provides that if the assessing authority discovers that the turnover of the business of a dealer has been under assessed or has escaped assessment or input tax or refund has been allowed in excess in any year, it may reassess the tax liability of the dealer for the assessment year after giving him a reasonable opportunity of being heard.

During analysis of inspection reports (IRs) issued by this office, to the offices of four DETCs (ST)³¹ for the years 2009-10 to 2012-13, it was noticed that in 50 cases involving escapement of tax of ₹ 12.75 crore pertaining to the assessment years 2006-07 to 2009-10, the AAs had replied at the time of audit that requisite action was being taken, cases were being re-examined, cases had been sent or being sent to Revisional Authority (RA) for taking suo motu action, but no such requisite action had been taken till date and the cases had become time barred. Thus, control failure at the DETC/JETC level, to ensure timely action by the AAs, resulted in loss of ₹ 12.75 crore towards unassessed cases becoming time barred.

During exit conference, the department agreed to the audit observation and stated to get action initiated now as the limitation period for revision has been enhanced to six years.

(e) Non levy of penalty for non-filing of returns

Section 37 A of HVAT Act provides for levy of penalty for late/non filing of returns. DETC of the district was required to seek report from AAs regarding late/non filing of returns by dealers and levy of penalty thereon.

During test check of records of offices of eight DETCs (ST)³², it was noticed that during 2009-10 to 2013-14, 5,723 dealers had not filed their returns in time and the AAs failed to levy penalty against these dealers as lack of control at DETC level led to non levy of penalty on return defaulters.

During exit conference, the department admitted the audit observation and stated to issue instructions for levy of penalty.

³¹ Ambala, Jagadhri, Jhajjar and Jind.

³² Ambala, Faridabad (West), Gurgaon (West), Jagadhri, Jhajjar, Jind, Sirsa and Sonapat.

(f) Recovery of demand created during the year

Recovery of tax/penalty assessed should be made from the dealers immediately after assessment and should be watched at appropriate level.

On analysis of records of eight selected DETCs (ST)³³, audit noticed that during the years 2009-10 to 2013-14, the AAs created demand of ₹ 4,464.66 crore, demand of ₹ 1,791 crore was dropped and net recoverable remained ₹ 2,673.66 crore as detailed in table below:-

(₹ in lakh)							
Sr. No.	Year	Demand created	Deletion/Dropped	Net recoverable	Recovered during the year	Balance to be recovered	Percentage of recovery
1	2009-10	80,098.97	12,899.40	67,199.57	4,763.56	62,436.01	7.09
2	2010-11	46,653.03	16,642.96	30,010.07	4,498.81	25,511.26	14.99
3	2011-12	46,793.84	17,744.05	29,049.79	4,302.78	24,747.01	14.81
4	2012-13	46,140.05	16,012.68	30,127.37	4,085.31	26,042.06	13.56
5	2013-14	2,26,780.56	1,15,801.49	1,10,979.07	5,618.39	1,05,360.68	5.06
	Total	4,46,466.45	1,79,100.58	2,67,365.87	23,268.85	2,44,097.02	8.70

The average recovery of net recoverable demand during the years 2009-10 to 2013-14 comes to 8.70 per cent only, which indicates that lack of control at appropriate level led to slow pace of recovery.

During exit conference, the department accepted the audit observation and stated that efforts would be made to speed up the recovery process.

2.2.12.3 Other deficiencies

In order to have an effective check, the assessment case files should contain the returns, lists of sale/purchase, statutory forms duly filled in and complete in all respects. Following deficiencies were noticed in the assessment files:

- As required under Rule 25 (i) copies of sale/purchase invoices in support of deduction of tax exempted sale was neither being obtained, nor name of items sold/purchased was mentioned in the assessment orders.
- As per provisions contained in Rule 9.3 of Punjab Financial Rules Volume-1, a refund was to be allowed out of original demand or realisation (as the case may be). As such the refund is to be allowed out of the tax paid into treasury by first seller of the goods. It was observed that refunds were being issued out of tax paid by large tax payers other than the sellers of the goods against which refunds had accrued. Refund applications were not being obtained on proper proforma VAT A-4.

³³ Ambala, Faridabad (West), Gurgaon (West), Jagadhri, Jhajjar, Jind, Sirsa and Sonipat.

- In the case of Works Contractors, copy of contract/agreement was not found in the assessment files.
- Name of item sold/purchased was not being mentioned on form C as the list of sale/purchase (LS-2/LP-3) contained narration, 'As per Bill'. Name of item sold/purchased should be recorded on the forms C and in the lists as well.
- VAT C-4 forms did not contain any Sr. No. or printed Sr. No. etc. as required under Rule-20 of HVAT Rules 2003. Further, in majority of the cases, name of items sold/purchased were also not mentioned on VAT C-4. After amendment dated 17 May 2010, particulars of payment of tax etc. had neither been printed on VAT C-4 nor submitted by the issuing dealers.
- Assessment for the years 2010-11, 2011-12 and 2012-13 were framed under Section 15(1) of HVAT Act 2003. No documents pertaining to VAT transactions were obtained at the time of assessment. But at the time of issue of refunds, documents i.e. VAT C-4/VAT D-1 etc. was also not obtained. In the absence of these documents, genuineness of refund issued could not be ascertained in Audit.
- In the case of exporters of Rice, no export orders (from foreign buyers) were available on the file to ascertain the correctness of procurement of Paddy/Rice etc. against declaration in form VAT D-2/H and purchase order no. and date of foreign buyers and details of export were not found filled in the declarations in form VAT D-2/H. Further, bills of lading (proof of export) did not contain custom clearance certificate in support of goods having left the customs frontier of India.
- Paddy Husk obtained by milling was not being reflected in trading account. It was stated that the same was used in Boiler as fuel. As utilisation of Paddy Husk as Fuel was disposal of goods otherwise than by way of sale, ITC was to be reversed proportionally. This was not being done.

During exit conference, the department admitted the deficiencies pointed out by audit and stated to issue necessary instructions so that such lapses do not re-occur.

2.2.14 Conclusion

Introduction of VAT envisaged computerisation of tax records, registration details and issue of declaration forms etc. for better tax administration, but even a minimum level of computerisation did not exist in the department even after lapse of more than twelve years. Uploading of information relating to

sales/purchase, issue of declaration forms and cancellation of registration certificates etc., through connectivity to national network TINXSYS was not done and verifications was being done manually by issuing letters to other districts/States. No provision exists in the Act for finalisation of assessments besides cancellation of RC, no efforts were made by the department to detect unregistered dealers/contractors by cross verification of information available with other departments. No improvement was noticed in the assessment even after decreasing the cases from 50,000 to 5,000 annually. Instances of under assessment of tax and irregular refunds due to application of incorrect rate of tax, benefit of tax concession on fake forms, non levy of penalty, interest and surcharge, excess benefit of tax concession, short-non reversal of ITC, irregular deductions were noticed which resulted in loss of revenue. In the absence of properly maintained demand and collection registers of returns, details of tax deposited could not be ascertained. After assessment, the assessment order and demand notices were issued late, resulting in loss of interest. Non-compliance of various provisions of the Act/Rules, resulted in inadequate tax management and administration.

2.2.15 Recommendations

It is recommended that the department may consider:-

- (i) Devising a system for uploading of details of use of declaration forms on Tax Information Exchange System (TINXSYS) for verification of sales/purchases against declaration forms;
- (ii) Implementing hundred *per cent* computerisation, for cross verification of transactions of sale/purchase, forms etc;
- (iii) Issuing necessary instructions to finalise the assessment cases at the earliest after the date of cancellation of registration certificates;
- (iv) Devising a system of cross exchange of database/information to detect unregistered works contractors/dealers and monitoring the results of exchange of information;
- (v) Issuing refunds as per Rule 9.3 of PFR Vol. I out of the tax paid into treasury by the first seller of goods only; and
- (vi) Institutionalising effective internal control mechanism to ensure compliance of the provisions of HVAT Act, CST Act and Rules made thereunder and put in place internal audit of assessment cases.

2.3 Incorrect benefit of ITC on goods not sold

Purchase of Duty and Entitlement Pass Book (DEPB)/Import License worth ₹ 95.81 crore, which are to be used for resale, was incorrectly allowed to be adjusted against Custom Duty payable, resulting in incorrect grant of ITC of ₹ 4.84 crore to a dealer.

As per provisions of Section 8 of HVAT Act 2003, ITC on purchase of goods is admissible against tax liability on sale of goods as such or the goods manufactured therefrom in the State or interstate trade and commerce. The Principal Secretary to Government of Haryana, Excise and Taxation Department had also clarified (22 April 2013) that ITC is available only if the Duty Credits Scrips (Scrips) are purchased for resale as such and no ITC would be admissible if these were used for adjustment of Custom Duty.

Audit noticed that a dealer under DETC (ST), Gurgaon (West) purchased Duty Entitlement Pass Book (DEPB)/Import License worth ₹ 95.81 crore after payment of VAT of ₹ 4.84 crore during 2009-10 to 2011-12. The dealer used the same for adjustment of custom duty payable by him. As the goods (Scrips) were not sold by the dealer, therefore, no ITC was admissible. However, while finalising assessments in these cases between March 2013 and March 2014, AA allowed the ITC claims to the dealer resulting in incorrect grant of ITC of ₹ 4.84 crore.

On this being pointed out (September 2014), the DETC (ST) Gurgaon (West) stated in September 2015 that the cases had been sent to the Revisional Authority for taking suo motu action.

The matter was reported to the Government in May 2015; reply has not been received (November 2015).

2.4 Non levy of interest

Action to levy interest was not initiated even after a lapse of 12 months resulting in non levy of interest of ₹ 3.49 crore by the DETC (ST) Panchkula, in one case.

Section 14 (6) of the HVAT Act, inter alia lays down that if any dealer fails to make payment of tax, he shall be liable to pay, in addition to the tax payable by him, simple interest at one *per cent* per month if the payment is made within ninety days, and at two *per cent* per month if the default continues beyond ninety days for the whole period, from the last date specified for the payment of tax till the date he makes the payment. The ETC, Haryana had also issued instructions (September 1993) that it is the duty of every AA to finalise penal proceedings along with the assessment and if, for any reason, the penal action is kept pending, that should be initiated immediately after the assessment is finalised and must be completed within six months of the assessment.

Audit noticed from the records of office of DETC (ST), Panchkula in November 2014, that the AA finalised the assessment of a dealer for the year 2010-11, in November 2013 and created an additional demand of ₹ 4.59 crore.

Action to levy interest/penal action was to be taken up separately as stated in the assessment order. However, no such proceedings were initiated to levy interest even after a lapse of 12 months. This resulted in non levy of interest of ₹ 3.49 crore.

On this being pointed out (November 2014), the DETC (ST) Panchkula stated in March 2015 that the interest of ₹ 3.43 crore has now been levied under section 14 (6) of HVAT Act. Further, progress on recovery is awaited (November 2015).

The matter was reported to the Government in May 2015; reply has not been received (November 2015).

2.5 Non levy of additional tax (surcharge)

The AAs did not levy additional tax in the nature of surcharge at the rate of five per cent of the tax of ₹ 33.93 crore under VAT resulting in non levy of surcharge of ₹ 1.69 crore, in 42 cases.

As per section 7 (A) of HVAT Act, an additional tax, in the nature of surcharge at the rate of five per cent on the tax was leviable w.e.f. 02 April 2010. The Principal Secretary to Government of Haryana has also clarified (10 February, 2014) that the work contractors who have exercised the option of payment of lump sum in lieu of tax are also liable to discharge the liability of surcharge under section 7 (A) of the HVAT Act.

Audit noticed from the assessment records of five offices³⁴ of DETC (ST) between July and December 2014, that the AAs while finalising the assessments (between April 2013 and March 2014) in 42 cases, calculated the tax of ₹ 33.93 crore, at the rate of four per cent on the taxable turnover of ₹ 807.05 crore during the years 2010-11 and 2012-13, but the additional tax at the rate of five per cent of the tax amount of ₹ 33.93 crore was not levied. This resulted in non levy of surcharge of ₹ 1.69 crore.

On this being pointed out (between July and December 2014), the AA Gurgaon (West) stated (January 2015) that additional demand of ₹ 12.43 lakh has been created in three cases. AAs Faridabad (East), Panipat and Karnal stated that the cases have been sent to Revisional Authority for taking suo motu action. DETC (ST) Bahadurgarh did not furnish any reply (November 2015).

The matter was reported to the Government in May 2015; reply has not been received (November 2015).

³⁴ Bahadurgarh, Faridabad (East), Gurgaon (West), Karnal and Panipat.

2.6 Non/short levy of tax due to incorrect classification

Incorrect classification of steam/embroidered fabrics and spare parts and levying tax at lower rate against leviable rate of 12.5 per cent, resulted in non/short levy of tax and surcharge of ₹ 1.98 crore, in seven cases.

Under Section 7 (1) (a) (iv) of the HVAT Act, tax is leviable at the rates specified in Schedules 'A' to 'G' of the Act depending upon the classification of goods and the items not classified in above schedules are taxable at general rate of tax i.e. 12.5 per cent with effect from 1 July 2005. Further, surcharge at the rate of five per cent of the tax was also leviable w.e.f. 02 April 2010.

2.6.1 Audit noticed from the assessment records of the office of DETC (ST), Panipat in September 2014, that a dealer sold steam worth ₹ 5.05 crore during the year 2010-11 and claimed as tax free sale and the AA while finalising the assessment in March 2014, also allowed it as tax free goods under schedule 'B' of the HVAT Act. However, steam is not classified in any schedule, hence taxable at the rate of 12.5 per cent plus surcharge. This resulted in non levy of tax and surcharge of ₹ 66.23 lakh besides interest of ₹ 52.99 lakh was also leviable.

On this being pointed out (September 2014), the DETC (ST) Panipat stated (September 2015) that an additional demand worth ₹ 1.21 crore had been created.

2.6.2 Audit noticed (May to July 2014) from the records of offices of DETC (ST), Sonipat that four dealers sold Embroidered Fabrics of ₹ 8.62 crore during 2011-12 and claimed the goods as tax free. The AAs, while finalising the assessments in November 2013, allowed the deductions treating it as tax free goods under Schedule 'B' of HVAT Act. However, embroidered fabrics being un- classified in any schedule is taxable at the rate of 12.5 per cent plus surcharge. This resulted in non-levy of VAT amounting to ₹ 1.13 crore besides interest of ₹ 58.81 lakh.

On this being pointed out (between may and July 2014), the DETC (ST) Sonipat stated (September 2015) that the cases had been sent to the Revisional Authority for suo motu action.

2.6.3 Audit noticed (August and September 2014) that two dealers under DETC (ST), Karnal sold machinery parts valued at ₹ 2.45 crore during the years 2010-11 to 2011-12 and paid tax of ₹ 12.86 lakh at the rate of five per cent plus surcharge. AA while finalising assessments during October 2013 to February 2014 also levied tax at the rate of five per cent plus surcharge instead of the correct rate of tax of 12.5 per cent plus surcharge as applicable in respect of unclassified item. This resulted in short levy of tax of ₹ 19.30 lakh, besides interest of ₹ 11.90 lakh.

AA, Karnal responded between August and September 2014 that cases had been sent to the Revisional Authority for taking suo motu action.

The matter was reported to the Government in May 2015; reply has not been received (November 2015).

2.7 Excess allowance of deposit of tax

Adjustment of tax deposit of ₹ 10.44 crore was allowed instead of ₹ 9.82 crore resulting in excess allowing of deposit of tax of ₹ 61.75 lakh, besides interest of ₹ 29.64 lakh was also leviable.

Under Section 14(3) of the HVAT Act, every dealer whose aggregate liability to pay tax under this Act for the last year or part thereof according to the returns filed by him, is equal to or more than one lakh rupees or such other sum, as may be prescribed, shall, in the manner prescribed, pay on or before the fifteenth day of each month the full amount of tax payable by him for the previous month, computed by him in accordance with the provisions of this Act and the rules made thereunder. The ETC, Haryana also issued instructions (March 2006) that benefit of tax deposited should be given after verification of payment of tax into Government treasury. Further, interest was also leviable under section 14(6) of the HVAT Act.

Audit noticed (January 2015) that one dealer under DETC (ST), Gurgaon (West) claimed ₹ 10.44 crore as benefit of deposit of tax during the year 2011-12. However, verification of deposits from the DCR, showed that a sum of ₹ 61.75 lakh was not found deposited as claimed to have been done on 29 November 2011. Neither was this amount found deposited in Treasury. However, the AA while finalising the assessment in November 2013 allowed the adjustment of tax deposit of ₹ 10.44 crore (inclusive of ₹ 61.75 lakh) instead of ₹ 9.82 crore. Despite ETC's instruction (March 2006) that benefit of tax deposited should be given only after verification of payment of tax into Government treasury, the AA allowed the adjustment of tax which was not deposited in treasury by the dealer. This resulted in allowing of excess benefit of tax of ₹ 61.75 lakh besides interest of ₹ 29.64 lakh was also leviable.

On this being pointed out (January 2015) DETC (ST) Gurgaon (West) stated in September 2015 that an additional demand of ₹ 61.75 lakh has been created. AA further intimated in May 2015 that 'recovery proceedings' for the due amount has been initiated against the dealer.

The matter was reported to the Government in May 2015; reply has not been received (November 2015).

2.8 Non levy of tax on sale of chemicals

Deduction in respect of chemicals (industrial inputs) was allowed treating it tax free sale instead of taxable at the rate of 4.2 per cent resulting in non levy of CST of ₹ 50.53 lakh besides interest of ₹ 26.28 lakh.

Under HVAT Act, chemicals sold to various industrial units as industrial inputs, falling under entry 102 of schedule 'C', are leviable to tax at the rate of four per cent and surcharge at the rate of five per cent on the tax leviable with

effect from April 2010 under section 7(A) of HVAT Act. Central Sales Tax (CST) rate is the same rate as VAT rate applicable in the State for dealers selling without 'C' forms. Further, interest was also leviable under Section 14 (6) of HVAT Act.

Audit noticed (August 2014) that a dealer coming under DETC (ST), Panipat sold chemicals worth ₹ 12.03 crore to industrial units of Punjab, manufacturing various type of alcohol/liquor during the year 2011-12 and claimed the goods as tax free sale. AA assessed the case under VAT in November 2013 and erroneously allowed the deduction treating it as tax free sale of goods. Since, chemicals are industrial inputs and taxable at the rate of 4.2 per cent. This resulted in non levy of CST of ₹ 50.53 lakh besides interest of ₹ 26.28 lakh.

On this being pointed out, DETC (ST) Panipat stated in September 2015 that the case had been sent to the revisional authority for taking suo motu action.

The matter was reported to the Government in May 2015; reply has not been received (November 2015).

2.9 Short levy of tax on sale of pipes

Tax at the rate of four per cent was levied instead of correct rate of tax of five per cent resulting in short levy of tax of ₹ 41.15 lakh besides interest of ₹ 30.74 lakh, in six cases.

Under Section 7 (1) (a) (iv) of the HVAT Act, 2003, tax is leviable at the rates specified in Schedules 'A' to 'G' of the Act depending upon the classification of goods w.e.f.1.7.2005. Under entry No. 60 of Schedule 'C' of HVAT Act 'pipes of all varieties including Galvanized Iron pipes, Cast Iron pipes, ductile pipes, Poly Vinyl Chloride pipes and conduit pipes are taxable at the rate of five per cent w.e.f. 15.02.2010 and surcharge at the rate of five per cent on the tax leviable under section 7(A) of HVAT Act w.e.f. 2nd February 2010. Further, interest was also leviable under Section 14 (6) of the HVAT Act.

Audit noticed (June 2014 to January 2015) from the assessment records of the DETC (ST), Sonipat and Rohtak that six dealers sold (2010-11 and 2011-12) Mild Steel (M.S.) pipes, Stainless Steel (S.S.) pipes, Black pipes and Steel pipes worth ₹ 49.20 crore and paid tax of ₹ 2.17 crore at the rate of four/five per cent. AAs while finalising assessment (November 2013 to March 2014) also levied tax at the rate of four per cent instead of correct rate of five per cent plus surcharge as applicable in respect of schedule 'C' items. This resulted in short levy of tax of ₹ 41.15 lakh besides interest of ₹ 30.74 lakh.

AA Sonipat responded (June 2015) that the case has been sent to RA for taking suo motu action. AAs of Rohtak stated that two cases had been sent to Revisional Authority for taking suo motu action and in one case that the dealers sold MS tubes instead of pipes and have rightly been taxed. The reply of the AA Rohtak was not correct as the dealer sold steel pipes. The reply in respect of one case of AA Rohtak was still awaited.

The matter was reported to the Government in May 2015; reply has not been received (November 2015).

2.10 Non levy of additional tax/penalty for misuse of form VAT D-1

Non lumpsum works contractor violated the condition stipulated in the certificate given on form VAT D-1 resulting in non levy of additional tax and penalty of ₹ 65 lakh.

Under Section 7 (3) of the HVAT Act, where taxable goods are sold by one dealer to another dealer, tax is leviable at a lower rate (four *per cent*) if the purchasing dealer furnishes a declaration in VAT-D1 certifying that the goods are meant for use in the manufacturing of goods for sale. The ETC also clarified (March 2013) that the non lump sum work contractors, especially civil works contractors engaged in construction of roads and buildings being not manufacturer of goods can not avail the facility of purchasing goods at concessional rate against Form VAT D-1. If any such dealer has misused the form VAT D-1 then penal action, as provided under the Act/Rules is required to be taken against him. Further, if an authorised dealer after purchasing any goods fails to make use of the goods for the specified purpose, the AA may impose upon him, by way of penalty, under Section 7 (5) of the HVAT Act, a sum not exceeding one and a half times the tax which would have been levied additionally. However, no penalty would be imposed if the dealer voluntarily pays the tax which would have been levied additionally under Section 7 (1) (a) of the HVAT Act along with the returns for the period, when he failed to make use of the goods purchased for the specified purpose.

Audit noticed (July 2013) from the assessment records of the DETC (ST), Panipat that a dealer (regular/normal work contractor), had purchased goods worth ₹ 3.06 crore against declaration in form VAT D-1 during the year 2009-10. This was not authorised as the dealer was normal work contractor who had not opted for lump sum payment of tax and had claimed ITC of ₹ 33.41 lakh. The dealer had also not paid the additional tax of ₹ 26 lakh along with returns and therefore, violated the condition stipulated in the certificate given on Form VAT D-1. Hence, dealer was liable to pay additional tax of ₹ 26 lakh and penalty of ₹ 39 lakh under section 7(5) of HVAT Act. AA while finalising the assessment in March 2013, failed to levy the same for this violation. This resulted in non levy of additional tax and penalty of ₹ 65 lakh.

DETC (ST) Panipat responded (September 2015) that the case had been sent to the Revisional Authority for taking appropriate action.

The matter was reported to the Government in May 2015; reply has not been received (November 2015).

2.11 Evasion of tax due to suppression of Sales

No action was initiated even after a lapse of nine months against four defaulting dealers for recovery of tax of ₹ 22.53 lakh besides penalty of ₹ 67.59 lakh in respect of suppressions of sales.

Under Section 38 of the HVAT Act, if a dealer has maintained false or incorrect accounts or documents with a view to suppress his sales, purchases,

imports into State or stocks of goods, or has concealed any particulars or has furnished to or produced before any authority any account, return, document or information which is false or incorrect in any material particular, such Authority may direct him to pay by way of penalty, in addition to the tax to which he is assessed or is liable to be assessed, a sum thrice the amount of tax which would have been avoided had such account, return, document or information as the case may be, been accepted as true and correct.

Audit noticed (October 2014) that four dealers (trading in yarn and waste) falling under DETC (ST) Panipat did not include goods of ₹ 4.29 crore in their sales made to a dealer of Panipat during 2011-12 thereby suppressed the sales. The AA finalised the assessments of these dealers (April to July 2013). This suppression of sales came to notice (January 2014) of the AA but no action was initiated by the concerned AA against the defaulting dealers for levy of tax and penalty under Section 38. Thus, the dealers had suppressed sales worth ₹ 4.29 crore and were liable to pay tax of ₹ 22.53 lakh at the rate of five *per cent* plus surcharge. Additionally, mandatory penalty of ₹ 67.59 lakh at the rate of three times of tax evaded was also leviable on suppression of sales.

The DETC (ST) Panipat responded (September 2015) that in three cases re-assessment have been framed and additional demand of ₹ 22.21 lakh had been created and in remaining one case re-assessment proceeding have been initiated.

The matter was reported to the Government in May 2015; reply has not been received (November 2015).

2.12 Non levy of tax on sale of HDPE pipes

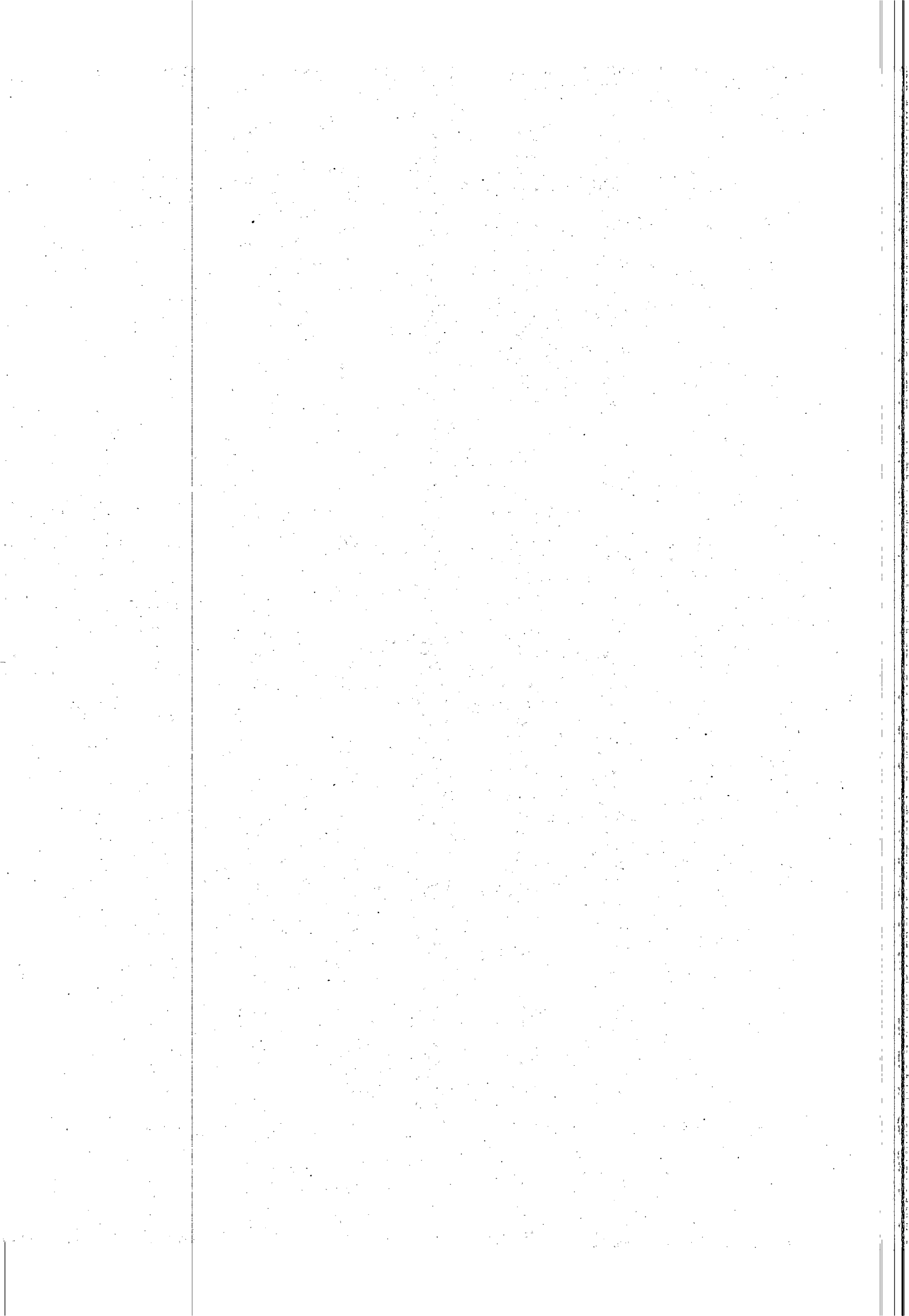
Tax free sales of ₹ 3.08 crore of HDPE pipes, were allowed instead of levying tax at the rate of five *per cent* plus surcharge resulting in non levy of tax amounting to ₹ 16.17 lakh, besides interest of ₹ 10.68 lakh.

Under Section 7 (1) (a) (iv) of the HVAT Act, tax is leviable at the rates specified in Schedules 'A' to 'G' of the Act depending upon the classification of goods. The Financial Commissioner and Principal Secretary to Government of Haryana has clarified on 18 November 2011 that High Density Polyethylene pipes (HDPE) are not tax free items but covered under entry No. 60 of Schedule 'C' of HVAT Act and taxable at the rate of five *per cent*.

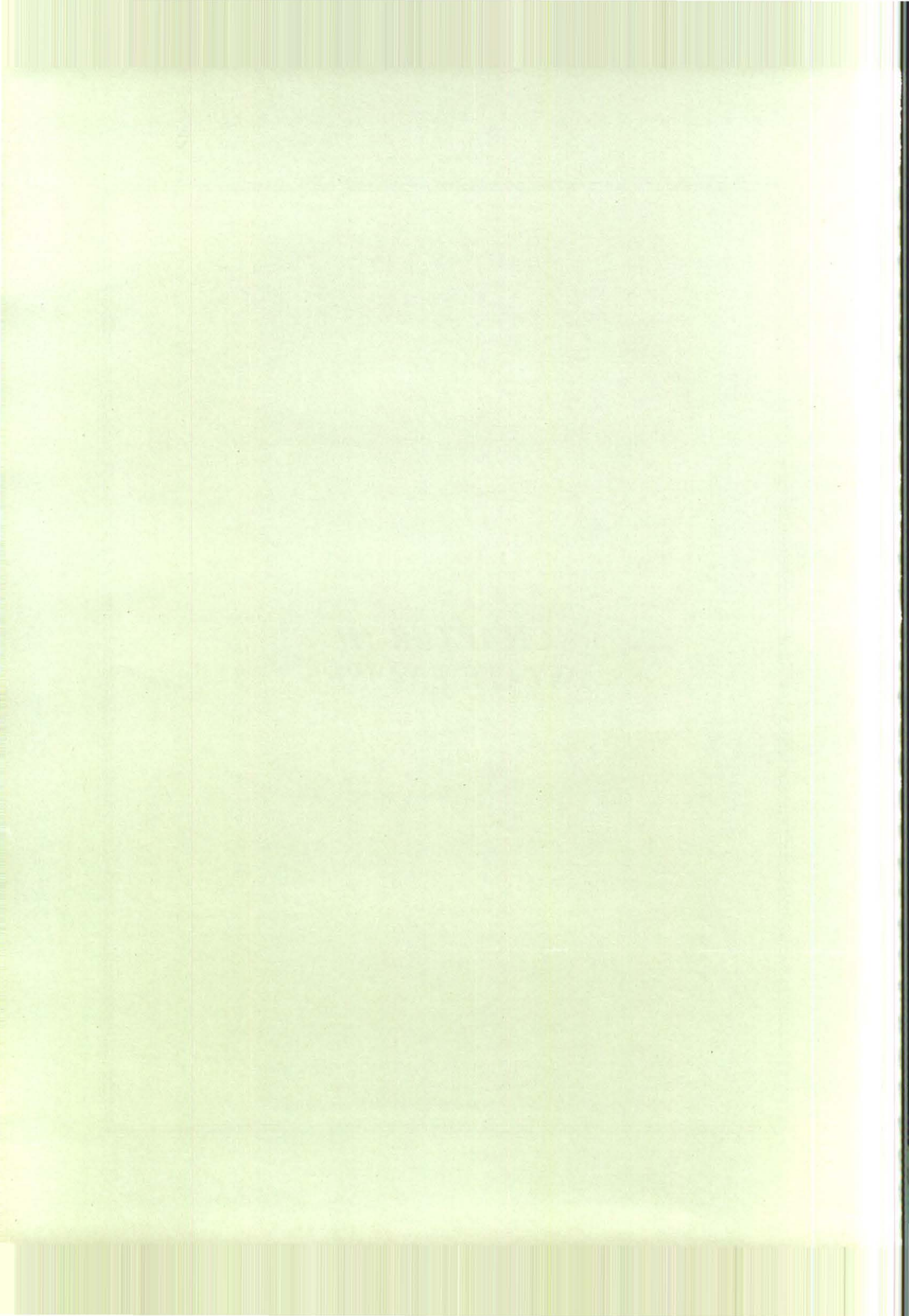
Audit noticed (May and June 2014) that one dealer under DETC (ST) Sonipat sold HDPE pipes worth ₹ 3.08 crore (2010-11 and 2011-12) and claimed tax free sales. AAs, while finalising the assessments (November 2013 and February 2014), also allowed the same instead of levying tax at the rate of five *per cent*. This resulted in non-levy of tax amounting to ₹ 16.17 lakh including surcharge, besides interest of ₹ 10.68 lakh was also leviable.

AA responded (October 2015) that the cases had been sent to the Revisional Authority for taking suo motu action.

The matter was reported to the Government in May 2015; reply has not been received (November 2015).



CHAPTER-III
STATE EXCISE



CHAPTER III: STATE EXCISE

3.1.1 Tax administration

The Additional Chief Secretary to the Government of Haryana, Excise and Taxation Department is the administrative head at Government level and Excise and Taxation Commissioner (ETC) is head of the Department. He is assisted by the Collector (Excise) at headquarter and Deputy Excise and Taxation Commissioners (Excise) {DETCs (Excise)}, Assistant Excise and Taxation Officers (AETOs), Inspectors and other allied staff for proper administration of State Excise Acts/Rules in the field.

The excise revenue is mainly derived from the license fee for the grant of license of various vends, excise duties levied on spirit/beer removed from distilleries/breweries and on that import/export to and from any other States.

3.1.2 Results of audit

In 2014-15, test check of the records of 36 units relating to excise duty, license fee receipts etc. showed non/short realisation of excise duty/license fee/interest/penalty and other irregularities involving ₹ 70.39 crore in 660 cases, under the following categories in the Table 3.1.

Table 3.1

(₹ in crore)			
Sr. No.	Categories	Number of cases	Amount
1.	Non/short deposit of license fee and loss of interest	494	63.15
2.	Non-realisation of differential amount of license fee on re-allotment of vends	4	2.23
3.	<ul style="list-style-type: none">• Non-recovery of penalty on illicit liquor• Non imposition of penalty	68 30	0.75 0.18
4.	Miscellaneous irregularities	64	4.08
	Total	660	70.39

During the year, the Department accepted underassessment and other deficiencies amounting to ₹ 27.12 crore in 251 cases, out of which ₹ 27.03 crore involved in 230 cases were pointed out during the year and the rest in earlier years. The Department recovered ₹ 5.33 crore in 87 cases, out of which ₹ 5.25 crore involved in 66 cases relates to the year 2014-15 and the rest to earlier years.

Significant cases involving ₹ 20.44 crore are discussed in the following paragraphs:

Audit findings

3.2 Non/short recovery of license fee and interest

Forty one licensees failed to pay the monthly instalments of license fee due for the year 2013-14 by the prescribed dates and DETCs (Excise) did not initiate action to seal the vends resulting in non/short recovery/levy of license fee of ₹ 15.39 crore and interest of ₹ 4.58 crore.

Haryana Liquor License Rules, 1970 (HLL Rules), read with the State excise policy for the years 2012-13 and 2013-14 provide for payment of monthly instalment of license fee by the 20th of each month by the licensee/allottee holding license for retail outlets for vending Country Liquor (CL) and Indian Made Foreign Liquor (IMFL). The full amount of license fee of the vends/group of vends shall be deposited in twelve equated monthly instalments for the year 2013-14 starting from April 2013 to March 2014 failing which the licensee is liable to pay interest at the rate of one and half *per cent* per month for the period from the first day of the month to the date of payment of the instalment or any part thereof. If the licensee fails to deposit the monthly instalment in full along with interest by the end of the month, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district.

3.2.1 Audit noticed (May and September 2014) from the M-2 registers¹ of payment of license fee for the year 2013-14 in five offices² of DETC (Excise) that 41 licensees had failed to pay the monthly instalments of license fee due for the year 2013-14 by the prescribed dates. The delay ranged between 396 to 730 days as of 31 March 2015. The licensee had paid only ₹ 95.89 crore against the payable amount of ₹ 111.28 crore. However, the DETCs (Excise) had not initiated any concrete action as per HLL Rules resulting in non/short recovery of licence fee of ₹ 15.39 crore besides interest of ₹ 2.59 crore.

DETCs (Excise) Sonipat and Kaithal replied (April 2015) that out of ₹ 8.52 crore (licence fee: ₹ 7.57 crore; interest: ₹ 94.90 lakh), an amount of ₹ 4.82 crore (licence fee: ₹ 4.48 crore; interest: ₹ 33.95 lakh) had been recovered/ adjusted in sixteen cases (between August 2014 and March 2015) and efforts would be made to recover the balance amount of ₹ 3.70 crore. DETCs (Excise) Bhiwani, Narnaul and Palwal stated (January and April 2015) that efforts would be made/notices had been issued to the defaulters to recover the outstanding licence fee of ₹ 7.82 crore besides interest of ₹ 1.64 crore. Further progress report on recovery is awaited (November 2015).

¹ M-2 register is defined as a register of licenses granted on fee determined by auction.
² Bhiwani, Kaithal, Narnaul, Palwal and Sonipat.

3.2.2 M-2 registers of payment of license fee in seven offices³ of DETC (Excise) for the years 2012-13 and 2013-14, also showed that 101 licensees had paid the monthly instalments of license fee amounting to ₹ 91.59 crore for the period between April 2012 and March 2014 after the prescribed due dates. The delay ranged between 21 and 151 days. The DETCs (Excise), however, did not initiate any action to seal/cease the vends and to levy interest for delayed payments of license fee. This resulted in non-levy of interest of ₹ 1.99 crore.

All the DETCs (Excise) admitted the facts and stated (March and April 2015) that an amount of interest of ₹ 25.07 lakh has been recovered/adjusted from security and efforts would be made to recover the balance amount of ₹ 1.74 crore. Further progress report on recovery is awaited (November 2015).

Similar cases were also pointed out in earlier reports for the years 2010-11 to 2013-14 and such mistakes are still being repeated but no recovery had been made till date.

The matter was reported to the Government in May 2015; reply has not been received (November 2015).

3.3 Non levy/recovery of penalty for illegal possession and trade of liquor

Non-observance of Rules 12 and 13 of the Haryana Imposition and Recovery Rules resulted in non levy of penalty of ₹ 4.69 lakh in 42 cases. Further, though the penalty of ₹ 42.32 lakh was levied in 108 cases by the department, the same was not recovered yet.

Under Section 61 (1) of the Punjab Excise Act, 1914, as applicable to the State of Haryana, penalty of not less than ₹ 50 and not more than ₹ 500 per bottle of 750 milliliters is leviable on the offender for possession of illicit liquor⁴. Further, Rules 12 and 13 of Haryana Imposition and Recovery of Penalty Rules, 2003, provides that if penalty is not paid within the stipulated period, the Collector or DETC (Excise) shall pass orders for confiscation of means of transport seized along with liquor and the means of transport shall be put to auction within 30 days from the date of order of confiscation.

Audit noticed (December 2013 to September 2014) at five offices⁵ of DETC (Excise) that for the years 2012-13 and 2013-14, the Department had detained 71,250 bottles of illicit IMFL/CL/Beer in 108 cases and confiscated 17 vehicles. The Department, after giving reasonable opportunity, decided 66 cases and imposed penalty of ₹ 42.32 lakh during 2012-13 and 2013-14. However, ₹ 4.69 lakh penalty for 42 cases was not levied. The defaulters did not pay the penalty resulting in non-recovery of penalty of ₹ 47.01 lakh (₹ 42.32 lakh + ₹ 4.69 lakh).

³ Faridabad, Jind, Karnal, Narnaul, Panchkula, Rewari and Sonipat.

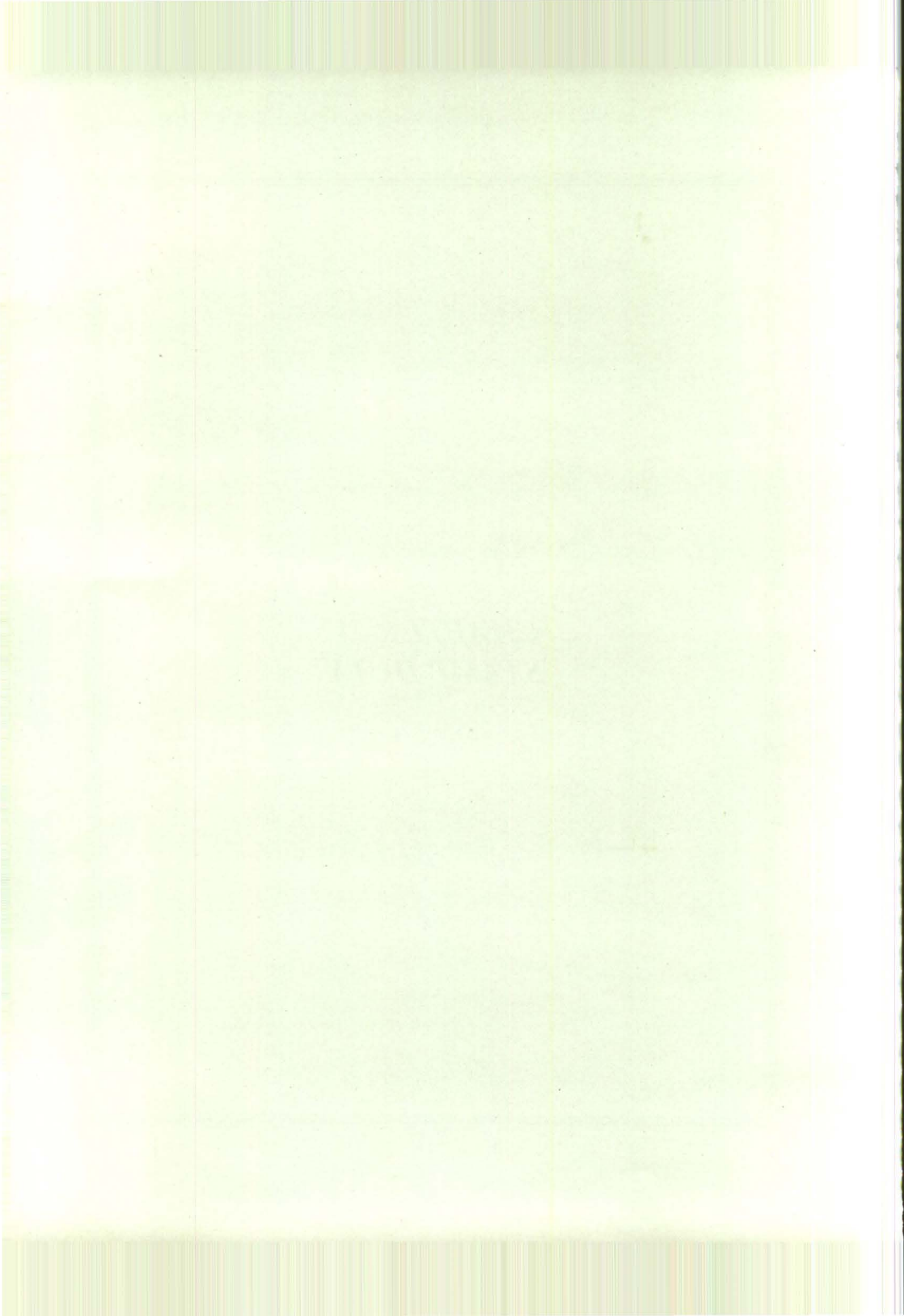
⁴ Illicit liquor means liquor prepared clandestinely/unlawfully, without any quality control checks, and not suitable for human consumption due to higher alcoholic concentration than permissible.

⁵ Jagadhri, Jind, Karnal, Kaithal and Sonipat.

DETCs (Excise), Karnal, Jagadhri and Sonipat responded (April 2015) that out of ₹ 30.76 lakh, an amount of ₹ 26,000 had been recovered in 10 cases and efforts would be made to recover the outstanding amount of ₹ 30.50 lakh. DETCs (Excise), Jind and Kaithal stated (April 2015) that efforts would be made to recover the outstanding amount of ₹ 16.25 lakh. Further progress on recovery is awaited (November 2015).

The matter was reported to the Government in April 2015; reply has not been received (November 2015).

CHAPTER-IV
STAMP DUTY



CHAPTER IV: STAMP DUTY

4.1.1 Tax administration

Receipts from the stamp duty (SD) and registration fee (RF) in the State are regulated under the Indian Stamp Act, 1899 (IS Act), Registration Act, 1908 (IR Act), Punjab Stamp Rules, 1934, as adopted by the Government of Haryana with suitable amendments and the Haryana Stamp (Prevention of Undervaluation of Instruments) Rules, 1978. At the Government level, the Additional Chief Secretary, Revenue and Disaster Management Department, Haryana is responsible for the administration of the IS Act and IR Act and the rules framed thereunder relating to the registration of various documents. The overall control and superintendence over levy and collection of SD and RF vests with the Inspector General of Registration (IGR), Haryana. The IGR is assisted by 21 Deputy Commissioners (DCs), 83 tehsildars and 47 naib tehsildars acting as Registrars, Sub Registrars (SRs) and Joint Sub Registrars (JSRs) respectively.

4.1.2 Results of audit

In 2014-15, test check of the records of 89 units of the Revenue Department showed non/short levy of stamp duty and registration fee etc. and other irregularities involving ₹ 227.83 crore in 1,441 cases, which fall under the following categories in **Table 4.1**.

Table 4.1

(₹ in crore)			
Sr. No.	Categories	Number of cases	Amount
1	Non/short recovery of stamp duty and registration fee due to		
	• undervaluation of immovable property	462	149.49
	• non-charging of residential rates on purchase of land	482	6.37
	• misclassification of instruments	102	18.52
2	Short realisation of stamp duty due to sale of property at lower consideration than the amount mentioned in the agreement deeds	106	1.23
3.	Irregular exemption of stamp duty on mortgage deeds/compensation certificates to land acquired	166	0.96
4.	Miscellaneous irregularities	123	51.26
Total		1,441	227.83

During the year, the Department accepted underassessment and other deficiencies amounting to ₹ 19.96 crore in 448 cases. The Department recovered ₹ 17,379 in one case relates to the earlier years.

Significant cases involving ₹ 19.96 crore are discussed in following paragraphs:

4.2 Short realisation of stamp duty due to misclassification of documents

Eighty nine deeds were assessed at ₹ 258.45 crore instead of assessing at ₹ 566.65 crore based on the rates fixed by the Collector, resulting in short levy of SD of ₹ 14.53 crore.

Under the provisions of the Section 2(10) of the IS Act, as applicable to the State of Haryana, separate rates have been prescribed for different types of instrument. The classification of an instrument depends upon the nature of transactions recorded therein. Further, as per Section 47 A of the IS Act, if the registering officer has reason 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 the same to the Collector for determination of the value or consideration, as the case may be, and the proper duty payable thereon.

Audit noticed (October 2013 to March 2015) from the records of 17 offices¹ of Sub Registrars (SRs)/Joint Sub Registrars (JSRs) for the years 2011-12 to 2013-14, that 89 deeds² were registered between May 2011 and November 2013 on the basis of rates fixed by the Collector for agricultural land. The value of these properties were assessed at ₹ 258.45 crore³ on which the department levied SD of ₹ 16.73 crore. However as per land records/khasra numbers given in the Collector's rates list, the immovable properties sold in 78 deeds were commercial/residential and in 11 deeds they were partly commercial i.e. Hotels, Stone crushers, Petrol pumps, Factories and Rice shellers as per land records (Jamabandhi) maintained by the Revenue Department. The value of these properties based on the rates fixed by Collector for commercial/residential properties was to be assessed for ₹ 566.65 crore on which SD of ₹ 31.26 crore was leviable. This resulted in short levy of SD of ₹ 14.53 crore (₹ 31.26 crore - ₹ 16.73 crore) due to undervaluation of immovable properties.

Eight SRs/JSRs⁴ replied (February 2014 to August 2015) that cases had been/would be sent to the Collector under Section 47 A of the IS Act.

¹ SRs/JSRs: Adampur, Ballah, Ballabgarh, Barwala, Ganaur, Gharaunda, Gurgaon, Hansi, Hisar, Indri, Karnal, Manesar, Nillokheri, Nissing, Rai, Sonipat and Uklana.

² 11 Deeds more than three years.

³ In 11 cases value were calculated on proportionate basis.

⁴ SRs/JSRs: Adampur, Barwala, Ganaur, Hansi, Hisar, Rai, Sonipat and Uklana.

SR Gharaunda admitted the facts (January 2015) in three cases and stated that in two cases, the land was agricultural land/vacant land. The reply was not tenable as the land records (Jamabandhi) shows that in those two cases the land were shown as commercial (factory). SR Karnal stated (January 2015) that six cases amounting to ₹ 6.98 lakh were more than three years old and further admitted that as there is no provision of recovery for the cases more than three years old, however, in view of revenue involved, cases had been sent to the Collector for final decision. SR Nilokheri stated in February 2015 that one case was more than three years old and remaining eight cases had been sent to collector for final decision. SR Ballabgarh stated in March 2015 that case would be sent to Collector under Section 47A for final decision. No further progress report on recovery and replies from the remaining five SRs/ JSRs⁵ have been received (November 2015).

The matter was reported to the Government in June and July 2015; reply has not been received (November 2015).

4.3 Short levy of stamp duty due to application of incorrect rates of immovable property

The registering authorities assessed 127 sale deeds of plots with an area less than 1,000 square yards under urban areas and near residential areas in the village but falling under the jurisdiction of municipality on the rates fixed for agricultural land instead of urban land which resulted in short levy of stamp duty of ₹ 2.46 crore.

In order to check evasion of stamp duty (SD) in sale deeds, the Government issued instructions in November 2000 to all registering authorities in the State to the effect that agricultural land sold within municipal limits, with an area less than 1,000 square yards or in case where purchasers are more than one and the share of each purchaser is less than 1,000 square yards, be valued at the rate fixed for residential property of that locality for the purpose of levying SD.

Audit noticed (June 2013 to April 2014) that in 32 registering offices⁶, 127 sale deeds of plots falling within the parameter of above notification were registered between April 2011 and July 2013. These deeds were liable to be assessed for ₹ 67.79 crore based on the rates fixed for residential areas and SD of ₹ 3.88 crore was chargeable. However, the registering authorities assessed the deeds for ₹ 26.85 crore based on the rates fixed for agricultural land and levied SD of ₹ 1.42 crore. This resulted in short levy of SD of ₹ 2.46 crore (₹ 3.88 crore - ₹ 1.42 crore).

⁵ SRs/JSRs: Ballah, Gurgaon, Indri, Manesar and Nissing.

⁶ SRs/ JSRs: Assandh, Barwala, Ballabgarh, Faridabad, Fatehabad, Farukhnagar, Ganaur, Gharaunda, Gohana, Gurgaon, Hansi, Hathin, Hisar, Jagadhri, Jhajjar, Karnal, Kurukshetra, Ladwa, Manesar, Mohindergarh, Nissing, Nuh, Pataudi, Panipat, Panchkula, Pehowa, Punhana, Samalakra, Shahbad, Sohna, Sonipat and Tohana.

29 SRs/JSRs⁷ replied (June 2013 to April 2014) that an amount of ₹ 2.42 lakh had been recovered in five cases of SRs Gurgaon, Kurukshetra and Tohana and the remaining cases had been/would be sent to the Collector for decision under Section 47 A of the IS Act. SRs Nuh and Punhana stated that action would be taken as per rules. No further progress report has been received on recovery and reply from the SR Mohindergarh till date (November 2015).

The matter was reported to Government in April 2015; reply has not received (November 2015).

4.4 Short levy of stamp duty due to application of non prime rates on land containing prime khasras

Sixty five deeds were assessed as agricultural land at ₹ 35.92 crore on which SD of ₹ 1.63 crore was levied instead of the rates fixed for prime land by the collector for ₹ 66.78 crore on which SD of ₹ 2.86 crore was leviable which resulted in short levy of stamp duty ₹ 1.23 crore.

As per Haryana Government instructions issued in November 2000, the Evaluation Committee has to fix separate rates for prime land i.e. land situated on National Highways, State Highways, link roads up to 2-3 acres of depth, developed Colonies/Wards/Sectors and record the khasras numbers in the Collector's rate list to avoid evasion of stamp duty. Thereafter, these rates are sent to the registering authority for proper evaluation of the immoveable properties situated in these prime khasras. Further, Section 27 of the IS Act as applicable to the state of Haryana, provides that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty which it is chargeable, should be fully or truly set forth therein.

Audit noticed (April 2012 to January 2015) from the records of 11 offices⁸ of the SRs/JSRs, that 65 conveyance deeds were registered for sale at normal khasras rates fixed for agricultural land during the period between April 2011 and November 2013. It was also found that the khasras transacted in these deeds were matched with the prime khasras (having higher land rates). As such, the value of land was liable to be assessed on the rates fixed by the Collector for prime land for ₹ 66.78 crore, on which SD of ₹ 2.86 crore was leviable. But these deeds were assessed at the rates fixed for agricultural land for ₹ 35.92 crore on which SD of ₹ 1.63 crore was levied. This resulted in evasion of SD of ₹ 1.23 crore (₹ 2.86 crore - ₹ 1.63 crore).

All the SRs/JSRs admitted the facts and stated (March 2013 to September 2015) that cases had been sent to the Collector under Section 47 A of the IS Act for decision. An amount of ₹ 17,379 had been recovered in

⁷ SRs/JSRs: Assandh, Barwala, Ballabgarh, Faridabad, Fatehabad, Farukhnagar, Ganaur, Gharaunda, Gohana, Gurgaon, Hansi, Hathin, Hisar, Jagadhri, Jhajjar, Karnal, Kurukshetra, Ladwa, Manesar, Nissing, Pehowa, Pataudi, Panipat, Panchkula, Samalakha, Shahbad, Sohna, Sonipat and Tohana.

⁸ Ambala, Barwala, Ganaur, Hansi, Hisar, Kalanuar, Meham, Nathusari Chopta, Rai, Sampla and Sonipat.

respect of one case of Barwala and efforts would be made to recover the outstanding amount of ₹ 1.23 crore⁹. No further progress report on recovery has been received (November 2015).

The matter was reported to Government in April 2015; reply has not received (November 2015).

4.5 Short realisation of stamp duty due to registration of documents on the basis of old agreement

The registering authorities assessed the value of land at ₹ 4.27 crore and levied SD of ₹ 18.55 lakh on the basis of rates agreed to between the parties earlier instead of registration of documents as per Collector rates valued at ₹ 17.26 crore and SD of ₹ 89.80 lakh resulting in short realisation of SD of ₹ 71.25 lakh in 45 cases.

As per Government order issued in May 2010, stamp duty (SD) shall be levied on the Collector rate of land to be sold and not on the basis of value agreed between the buyer and the seller. If the Registering Authority has reason 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 the same to the Collector for determination of the value or consideration, as the case may be, and the proper duty payable thereon.

Audit noticed (October 2012 to March 2014) from the records of 21 offices¹⁰ of SRs/JSRs for the years 2011-12 and 2012-13, that in 45 cases, the registering authorities assessed the value of land at ₹ 4.27 crore on the basis of rates agreed to between the parties earlier and levied SD of ₹ 18.55 lakh, but the actual value of the immovable property was ₹ 17.26 crore as per Collector rate applicable at the time of registration of documents and SD of ₹ 89.80 lakh was leviable resulting in short levy of SD of ₹ 71.25 lakh (₹ 89.80 lakh - ₹ 18.55 lakh).

18 SRs/JSRs¹¹ replied (April 2014 to September 2015) that cases had been sent to the Collector for assessment of correct value of property in sale deeds and an amount of ₹ 96,162 had been recovered in two cases of Bawal and Jind. Three SRs/JSRs¹² replied (October 2012 to March 2014) that cases would be sent to the Collector for decision under Section 47-A of the IS Act.

The matter was reported to Government in April 2015; reply has not received (November 2015).

⁹ ₹ 1, 23, 24,614 - ₹ 17,379 = ₹ 1, 23, 07,235 say ₹ 1.23 crore.

¹⁰ SRs: Ambala City, Babain, Bapoli, Bawal, Dharuhera, Gohana, Jind, Kurukshetra, Kosli, Matlauda, Narwana, Panipat, Rewari, Saha, Safidon, Samalkha, Shahabad, Sonipat and Tohana; JSRs: Pillukhera and Uchana.

¹¹ SRs: Ambala, Babain, Bawal, Dharuhera, Gohana, Jind, Kurukshetra, Kosli, Narwana, Panipat, Rewari, Saha, Samalkha, Safidon, Shahabad and Tohana; JSRs: Pillukhera and Uchana.

¹² SRs: Bapoli, Matlauda and Sonipat.

4.6 Evasion of stamp duty due to undervaluation of immovable property

Sixty two conveyance deeds were executed and registered at a consideration less than what had been agreed to between the parties resulting in evasion of stamp duty of ₹ 68.72 lakh due to undervaluation of immovable properties.

Section 27 of the IS Act, provides that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of duty with which it is chargeable, should be fully or truly set forth therein. Further, Section 64 of the IS Act provides that any person who, with intent to defraud the Government, executes an instrument in which all the facts and circumstances required to be set forth in such instrument are not fully and truly set forth, is punishable with a fine which may extend to ₹ 5,000 per instrument.

Audit noticed (April 2012 to March 2014) from the records of register of deed writers/agreements executed in JSR/SR office of 22 registering offices¹³, that 62 conveyance deeds were registered between April 2011 and January 2014 on account of sale of immovable properties worth ₹ 14.75 crore on which SD of ₹ 56.28 lakh was levied. Cross verification of these deeds with the agreements executed between the concerned parties between February 2011 and March 2013, showed that the total sale value of agreements worked out to ₹ 46.72 crore on which SD of ₹ 1.25 crore was leviable. Thus, the conveyance deeds were executed and registered at a consideration less than what had been agreed to between the parties. Undervaluation of immovable properties in conveyance deeds resulted in evasion of stamp duty of ₹ 68.72 lakh besides penalty.

11 SRs/JSRs¹⁴ replied (December 2012 to September 2015) that cases had been sent to the Collector for assessment of correct value of property in sale deeds. Seven SRs/JSRs¹⁵ stated (April 2012 to June 2014) that cases would be sent to the Collector for decision under Section 47-A of the IS Act. Further progress report on recovery and action taken to levy penalty and replies from the remaining four SRs/JSRs¹⁶ are still awaited (November 2015).

The matter was reported to Government in April 2015; reply has not received (November 2015).

¹³ Ballabgarh, Bhuna, Ballah, Faridabad, Fatehabad, Gohana, Ganaur, Hodel, Hathin, Jind, Jakhal, Khanpurkalan, Kharkhoda, Matlauda, Nuh, Narwana, Pillukhera, Samalkha, Safidon, Tohana, Uchana and Palwal.

¹⁴ Ballabgarh, Ballah, Faridabad, Ganaur, Gohana, Hodel, Khanpurkalan, Kharkhoda, Matlauda, Samalkha and Uchana.

¹⁵ Bhuna, Jind, Jakhal, Tohana, Narwana, Pillukhera and Safidon.

¹⁶ Fatehabad, Hathin, Nuh and Palwal.

4.7 Irregular exemption of stamp duty

Irregular exemption of stamp duty to farmers who had purchased land after two years of receipt of compensation for acquired land in 27 cases resulted in non/short levy of SD to the extent of ₹ 17.57 lakh.

As per Government order issued on January 2011, under the IS Act, the Government exempts the stamp duty (SD) in respect of the sale deeds executed by farmers whose land is acquired by Haryana Government for public purposes and who purchase agricultural land in the State within two years of the amount of compensation received by them, for the land acquired by the Government. The remittance will be limited to the compensation amount only and the additional amount involved in the purchase of agricultural land, will be liable to SD as per rules.

Audit noticed (September 2013 to November 2014) from the records of 11 offices¹⁷ of JSRs/SRs, that farmers, whose land was acquired by the Government for public purposes, purchased residential/commercial land valued at ₹ 1.63 crore in 25 cases and agricultural land (after two years of the compensation amount received) valued at ₹ 1.77 crore in two cases between May 2012 and March 2014. Stamp duty was to be levied at the rate of four to seven *per cent* amounting to ₹ 17.75 lakh as the farmers had purchased residential land or agricultural land after two years of receipt of compensation and hence they were not eligible for exemption of SD. The Department had levied SD of ₹ 18,050 only in one case of Narwana. Thus irregular exemption of SD resulted in non/short levy of SD of ₹ 17.57 lakh.

JSR Julana replied (November 2014) that action would be taken as per rules. All other JSRs/SRs¹⁸ stated (December 2013 to May 2015), that cases had been/would be sent to the Collector for decision under Section 47-A of the IS Act. Further progress report on recovery is yet to be received (November 2015).

The matter was reported to Government in April 2015; reply has not received (November 2015).

4.8 Undue benefit through reduction in Stamp Duty

Undue benefit through reduction in SD in contravention of provision for execution of gift deeds in favour of persons other than blood relations, resulted in loss of revenue of ₹ 16.29 lakh to State exchequer in 120 instruments of gift deeds.

As per notification issued on November 2010, under the IS Act, the Government reduced the Stamp Duty (SD) by one *per cent* in respect of instrument of transfer of gift of self acquired immovable property executed in favour of son or daughter or father or mother or spouse of the executants.

¹⁷ SRs/JSRs: Ambala City, Bhuna, Gharaunda, Julana, Nillokheri, Narwana, Naraingarh, Saha, Shehzadpur, Safidon and Uchana.

¹⁸ SRs/JSRs: Ambala City, Bhuna, Gharaunda, Nillokheri, Narwana, Naraingarh, Saha, Shehzadpur, Safidon and Uchana.

Audit noticed (March to August 2014) from the registered documents of gift deeds in five offices¹⁹ of SRs/JSRs for the years 2012-13 and 2013-14, that 120 instruments of gift deeds were executed in favour of persons other than those allowed in the above notification of Government. The registering authorities allowed the exemption of SD by one *per cent* to donees which was in contravention of above orders of the Government. Thus, undue benefit through reduction in SD resulted in loss of revenue to State exchequer to the extent of ₹ 16.29 lakh.

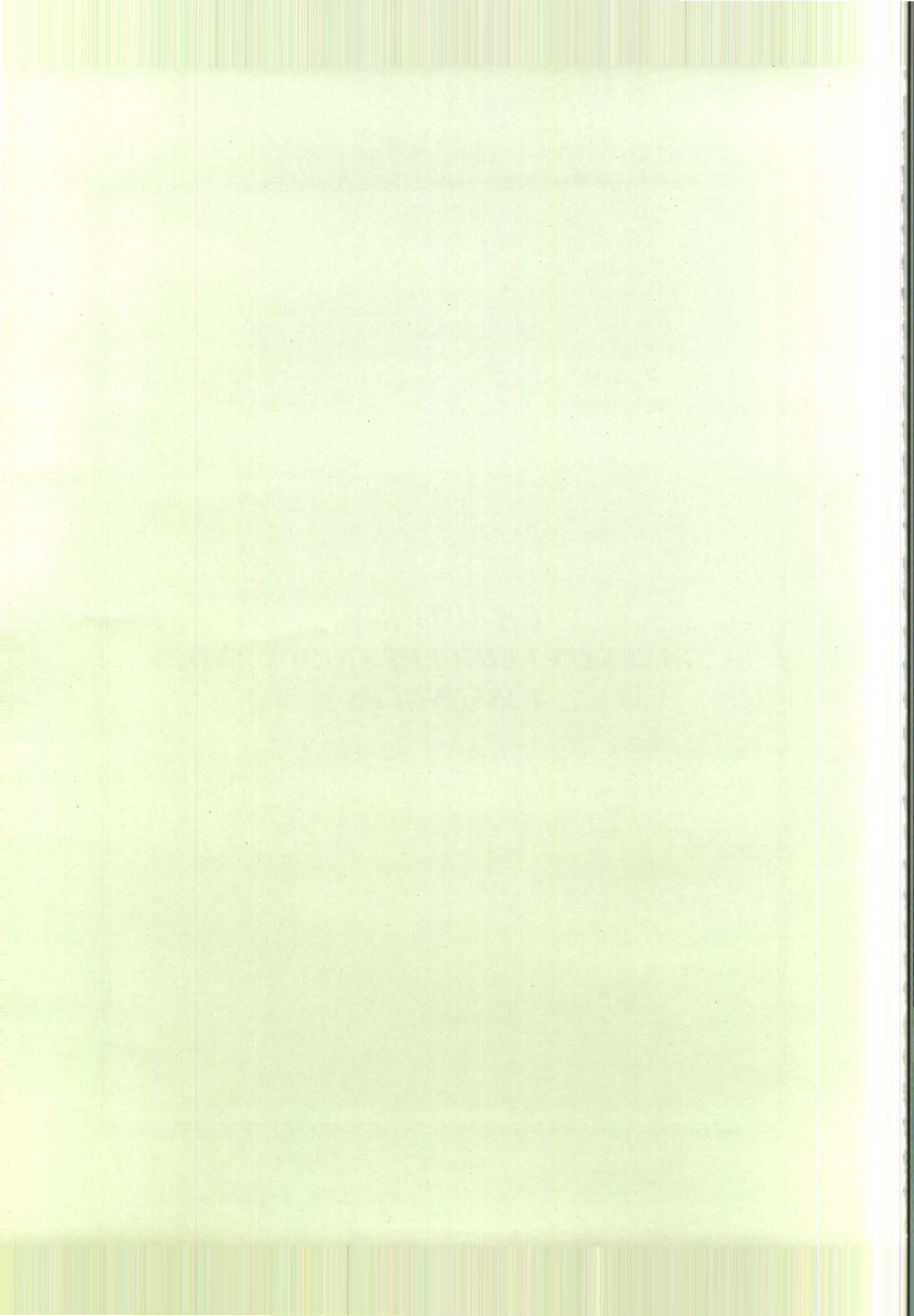
JSR Shahzadpur replied (November 2014) that notices had been issued for recovery. JSR Matlauda and SR Naraingarh stated (March and August 2014) that recovery would be made as per rules. JSR Ambala Cantt and Panipat stated in May and September 2015 that cases had been sent to the Collector for decision under Section 47-A of the IS Act. The reply of the registering authority did not explain why these cases had been referred to the Collector since there was no need to refer the cases to the Collector for decision as it had been clearly specified in the notification regarding reduction in SD for execution of transfer of self acquired immovable property. No further progress report on recovery has been received (November 2015).

The matter was reported to Government in April 2015; reply has not received (November 2015).

¹⁹

SRs: Naraingarh, Panipat; JSRs: Ambala Cantt. Matlauda and Shehzadpur.

CHAPTER-V
TAXES ON VEHICLES, GOODS AND
PASSENGERS



CHAPTER V: TAXES ON VEHICLES, GOODS AND PASSENGERS

5.1.1 Tax administration

5.1.1.1 Taxes on vehicles

Registration of motor vehicles, issue of permits, issue of driving/conductor licences, levy and collection of token tax, permit fee, licence fee etc. are governed under the provisions of the Motor Vehicles Act, 1988, (MV Act) Central Motor Vehicles Rules, 1989, the Haryana Motor Vehicles Rules, 1993, the Punjab Motor Vehicles Taxation Act, 1924 (PMVT Act), as applicable to the State of Haryana and the Punjab Motor Vehicles Taxation Rules, 1925. The Additional Chief Secretary to Government of Haryana, Transport Department is the administrative head assisted by the Transport Commissioner who exercises general superintendence over the functioning of the Department. The powers of Registering and Licensing Authority (RLA) are being exercised by 62 Sub-Divisional Offices (Civil) in respect of non-transport vehicles, whereas 21 Secretaries, Regional Transport Authorities (RTAs) are exercising the powers of RLA in respect of transport vehicles including goods vehicles.

5.1.1.2 Passengers and goods tax

Levy and collection of passengers and goods tax (PGT) are governed under the provisions of the Punjab Passengers and Goods Taxation Act, 1952 (PPGT Act) and the Rules framed thereunder, as applicable to the State of Haryana. The Principal Secretary to Government of Haryana, Excise and Taxation Department is the administrative head at the Government level. Overall charge of the Department vests with the Excise and Taxation Commissioner (ETC), Haryana, Panchkula. The work relating to levy and collection of PGT is carried out by the Assistant Excise and Taxation Officers (AETOs) under Deputy Excise and Taxation Commissioners (DETCs) in the field.

5.1.2 Results of audit

In 2014-15 test check of the records of 71 units relating to token tax, fitness/renewal fee, taxes on goods and passengers, penalty etc. showed irregularities involving ₹ 49.10 crore in 3,81,054 cases, under the following categories in the **Table 5.1**.

Table 5.1

			(₹ in crore)
Sr. No.	Categories	Number of cases	Amount
1.	Recovery of Goods Tax and Passengers tax under PPGT Act, 1952	01	38.69
2.	Collection of revenue from outsourced activities in Motor Vehicles Tax	01	0.54
3.	Non recovery of fitness/renewal fee on account of renewal of registration certificates	3,57,289	6.71
4.	Non/short recovery of token/road tax in respect of Stage carriage buses/city buses.	202	1.06
5.	Non Recovery of fine from overloaded vehicles	59	0.10
6.	Non/short recovery of <ul style="list-style-type: none"> • passengers tax • goods tax • token tax from private vehicles 	534 880 331	0.98 0.53 0.19
7.	Miscellaneous irregularities	21,757	0.30
Total		3,81,054	49.10

During the year, the Department accepted underassessment and other deficiencies amounting to ₹ 39.58 crore in 931 cases, out of which ₹ 39.54 crore involved in 904 cases were pointed out during the year and the rest in earlier years. The Department recovered ₹ 0.05 crore in 31 cases, out of which ₹ 0.01 crore involved in four cases relates to the year 2014-15 and the rest to earlier years.

Significant cases involving ₹ 39.28 crore are discussed in following paragraphs:

Passengers and goods tax

5.2 Recovery of Goods Tax and Passengers Tax under PPGT Act, 1952

Due to lack of internal control, monitoring and follow-up action, the assessing authorities failed to send notices to the defaulting vehicles owners, resulting in either non-updating of DCRs or short realisation of Passengers and Goods tax to the extent of ₹ 24.10 crore, besides interest of ₹ 14.59 crore, in 15,850 cases.

All the motor vehicles carrying goods and passengers are required to be registered with AETO of the district concerned in which the owner of the vehicle has residence or place of business where the vehicle is normally kept in the State. Two districts {Faridabad (East and West) and Gurgaon}, having highest collection of revenue, were selected and remaining four districts were selected on the basis of random selection method. The records of the seven offices¹ of DETCs (PGT) in six districts, out of 21 districts, for the period from 2011-12 to 2013-14 were test checked between December 2014 and April 2015, to assess whether the mechanism for recovery of passengers and goods tax was effective in the department. The important findings noticed were as under:

¹ Bhiwani, Faridabad (East), Faridabad (West), Gurgaon, Jagadhri, Rewari and Rohtak.

5.2.1 Non/short realisation of Goods Tax

Goods tax is leviable in lump sum on public or private carriers plying in or passing through the State. The rates are prescribed on the basis of Gross Vehicle Weight as per Motor Vehicles Act, 1988 with effect from 25 March 2011. The rates are ₹ 4,000 per annum (not exceeding 10 tons), ₹ 5,600 per annum (exceeding 10 tons but not exceeding 17 tons) and ₹ 12,000 per annum (exceeding 17 tons). Further, as per Section 14 (B) of the PPGT Act where any tax or penalty is not paid within the prescribed time, the owner of the vehicle shall be liable to pay interest at the rate of two *per cent* per month on the unpaid amount of tax.

Audit noticed (December 2014 to April 2015) from the records of 75,105 vehicles in seven offices² of DETC (PGT), that either the vehicle owners of 14,342 public or private carriers used for carrying goods had not deposited the Goods tax of ₹ 20.54 crore for different periods between April 2011 and March 2014 or the department had not updated the Demand and Collection Registers (DCRs). However, no demand notices were issued by the department and the assessing authorities also failed to review the DCRs. This resulted in non/short realisation of Goods tax of ₹ 20.54 crore, besides interest³ of ₹ 12.37 crore.

All the DETCs (PGT) admitted the facts and stated that Goods tax of ₹ 25.33 lakh, besides interest of ₹ 12.40 lakh from 359 vehicle owners had been recovered and notices had been issued to the remaining vehicle owners to recover the outstanding amount of ₹ 32.53 crore.

5.2.2 Non/short recovery of passengers tax from taxi car/maxi cab owners

Under Section 9 (1) (iv) and (iv-a) of the PPGT Rules, Passengers tax on taxi cars/maxi cabs having seating capacity (excluding driver) up to (i) five seater and (ii) seven to 12 seater is leviable at the rate of (i) ₹ 3,000 per annum (ii) ₹ 100 per seat per month respectively. Tax is payable in equal quarterly instalments within 30 days of the commencement of the quarter to which payment relates. Further, interest is also leviable as per PPGT Act.

Audit noticed (December 2014 to April 2015) from the records of 10,665 vehicles in seven offices⁴ of DETC (PGT), that either the vehicle owners of 1,363 taxi cars/maxi cabs used for carrying passengers had not deposited the Passengers tax of ₹ 3.26 crore for different periods between April 2011 and March 2014 or the department had not updated the DCRs. This resulted in non/short realisation of Passengers tax of ₹ 3.26 crore, besides interest of ₹ 2.00 crore.

All the DETCs (PGT) admitted the facts and stated that four DETCs (PGT)⁵ had recovered the Passengers tax of ₹ 1.27 lakh, besides interest of ₹ 63,000 from 11 vehicles owners and notices had been issued to the defaulting vehicles owners to recover the balance amount of ₹ 5.24 crore.

² Bhiwani, Faridabad (E), Faridabad (W), Gurgaon, Jagadhri, Rewari and Rohtak.

³ Interest calculated upto 31 March 2015.

⁴ Bhiwani, Faridabad (E), Faridabad (W), Gurgaon, Jagadhri, Rewari and Rohtak.

⁵ Bhiwani, Jagadhri, Rewari and Rohtak.

5.2.3 Short realisation of passenger tax from school/institution bus owners

Under Rule 9 (2F) (i), the owners of educational institutions⁶ and private schools pay a lump sum of ₹ 60 and ₹ 20 per seat per month respectively for nine months (July to March) in a year where monthly bus charges exceeds ₹ 200 per seat. Further, as per Haryana Government notification dated 4 October 2013, the above said tax is exempted in case of non-AC buses of private schools only. Interest is also leviable as per PPGT Act.

Audit noticed (March and April 2015) from the records of DETCs (PGT) Faridabad (East), Faridabad (West) and Gurgaon, that either the owners of 135 school/institution buses used for carrying students of schools/institutions had not deposited the Passenger tax of ₹ 25.97 lakh for different periods between April 2011 and March 2014 or the department had not updated the DCRs. This resulted in short realisation of Passenger tax of ₹ 25.97 lakh, besides interest of ₹ 21.41 lakh.

All the DETCs (PGT) admitted the facts and stated (March and August 2015) that Passengers tax of ₹ 11.34 lakh, besides interest of ₹ 7.07 lakh in 33 cases had been recovered and notices had been issued to recover the outstanding amount of ₹ 28.97 lakh.

5.2.4 Non/short realisation of passenger tax from city bus operators

Section 9 (2E) of the Punjab Passengers and Goods Taxation (PPGT) (Haryana Amendment) Rules, 2004, as inserted with effect from 24 February 2004, provides that the holders of permit for plying buses on the roads within the municipal corporation limit in Faridabad and Gurgaon districts are required to pay monthly Passengers tax at the rate of ₹ 4,200 and ₹ 7,000 in respect of ordinary half-body and full-body bus respectively. Further, interest is also leviable as per PPGT Act.

Audit noticed (March and April 2015) from the records of the offices of DETCs (PGT) Faridabad (East) and Gurgaon, that out of 142 buses, either the owners of 10 stage carriage private bus operators had not deposited the Passenger tax of ₹ 4.54 lakh for different periods between April 2011 and March 2014 or the department had not updated the DCRs. This resulted in short realisation of Passenger tax of ₹ 5.11 lakh inclusive of interest.

DETCs (PGT) Faridabad (East) and Gurgaon admitted the facts and stated in March 2015 that notices would be issued to the concerned vehicle owners and efforts would be made to recover the outstanding amount. Further progress report on recovery is awaited (November 2015).

The assessing authorities are required to review DCRs periodically and send notices to the owners at any time within a period of three years in case it was discovered that the owners were under-assessed or had escaped assessment for any year, or tax less than the amount due was levied. Due to lack of internal

⁶ "Educational institution bus" means an omnibus, which is owned by a college, school or other educational institution and used solely for the purpose of transporting students or staff of the educational institution in connection with any of its activities.

control, monitoring and follow-up action, the assessing authorities failed to send notices in the above cases, resulting in either non-updating of DCRs or short realisation of Passengers and Goods tax to the extent of ₹ 24.10 crore, besides interest of ₹ 14.59 crore, in 15,850 cases.

On this being pointed out, seven DETCs had recovered the Passengers and Goods tax of ₹ 37.94 lakh, besides interest of ₹ 20.10 lakh in 403 cases till August 2015.

The above points were reported to the Government in June 2015; reply has not been received (November 2015).

TRANSPORT DEPARTMENT

5.3 Collection of revenue from outsourced activities in Motor Vehicles Tax

HSRPs were affixed without snap lock which was mandatory for better security; affixation of HSRPs on new registered vehicles ranged between 27 and 81 per cent and replacement of HSRPs on old vehicle had not started. Due to lack of monitoring and follow up action, the department had failed to issue notices to recover pending licence fees from the defaulting PCC owners/Driving Training Schools resulting in non recovery of license fee of ₹ 7 lakh.

There are provisions for affixation of the High Security Registration Plates (HSRPs) on motor vehicles, issue/renewal of licenses to Pollution Check Centers for issuing Pollution Under Control Certificates (PUCC) to vehicle owners and issue and renewal of licenses to Driving Training Schools for imparting driving training to the public. However, the State Government has outsourced these activities to the private parties.

The records of the offices of the Regional Transport Authorities (RTAs) and Registering Authorities (Motor Vehicles) {RAs (MVs)} in seven districts⁷ out of 21 districts of the State for the years 2011-12 to 2014-15 were test checked between December 2014 and May 2015 to assess whether the system of collection of revenue from outsourced activities was effective in the department. The important findings noticed are as under:

5.3.1 Non-achievement of target of affixation of High Security Registration Plates (HSRPs)

As per Central Government enactment of “New High Security Registration Plates Order” dated 22nd August 2001 read with Rule 50 of Central Motor Vehicle Rules (CMVR), it will be mandatory for all new registered vehicles to be affixed with HSRPs having specifications and standards as prescribed in the rules. In case of already registered vehicles, such Registration Plates were to be fixed within two years from the date of publication of the order. The Haryana Government implemented the scheme of HSRP after the direction of

⁷ Ambala, Faridabad, Gurgaon, Jhajjar, Rohtak, Sirsa and Yamunanagar.

the Supreme Court dated 13 October 2011. Transport Department, Haryana had entered into a contract with M/S Link Utsav Registration Plates, Private Limited, New Delhi on 27 April 2012 and the work was started with effect from 25 May 2012.

As per clause 10.5.2.1 of the agreement, the HSRPs should be ready for affixation at the respective Affixation Station within four days from the date of receipt of authorisation from the Registering Authority and the receipt of price from the vehicle owner. The RTAs and RA (MVs) in the State were responsible for the implementation of the work and were instructed to monitor it. It was also directed to ensure that no Registration Certificate was issued without affixing HSRP.

Audit noticed (December 2014 to May 2015) that 8,54,257 motor vehicles were registered between June 2012 and March 2015. The HSRPs were affixed only on 4,06,108 vehicles. The remaining 4,48,149 vehicles (52 per cent) were not affixed with HSRPs up to 31 March 2015. The shortage in achievement of targets ranged between 27 and 81 per cent in 24 Registering Authorities for affixation of HSRPs on new registered motor vehicles. The reasons for shortfall were called for but no reply was provided.

It was further noticed that data relating to old registered vehicles prior to June 2012 for replacement of HSRPs was not transferred up to July 2015 as more than two years had been elapsed of the start of the project.

All the Registering Authorities responded (March 2015 to May 2015) that the data of registration of new vehicles had been transferred directly to the HSRP contractor and it was the responsibility of the vehicle owners to get HSRPs affixed. The replies of the Registering Authorities were not tenable as all the RTAs/RAs were required to ensure that no Registration Certificate was to be issued without affixing the HSRP. In the case of old registered vehicles, the Transport Department stated (August 2015) that NIC has sent data of old vehicles through web service to the firm. However, no timeframe was laid down in this regard. Thus, there was lack of monitoring on the part of RTAs/RAs which was in contravention of Supreme Court Judgement⁸ which laid down that "Installation of HSRP is statutory command which is not only in interest of the security of the State, but also serves a much larger public interest. Therefore, it is not only desirable, but mandatory, for every State Government and Union Territory to comply with the statutory provisions/orders of Supreme Court in terms of Article 129 of the Constitution of India."

5.3.2 Non fixation of snap locks

As per condition number 4 (viii) of HSRPs order, HSRPs shall be fastened with at least two non-removable/non-reusable snap lock system in the rear of the vehicles for the sake of better security. The State Government may engage any approved testing agency which will conduct periodical checking/evaluation/testing and certification of the HSRPs on regular and

⁸ Maninder Singh Bitta Vs. Union of India & ORS. (Writ petition© No.510 of 2005) dated 7 February 2012.

random basis at embossing/affixing stations and on the roads, in order to verify their quality and performance.

Audit noticed (December 2014 to March 2015) from the records of RTAs/RAs offices of seven districts, that HSRPs were affixed in 4,06,108 motor vehicles with blind rivets only. These HSRPs were without snap lock which was mandatory for better security. Absence of snap locks negated the very purpose of the entire exercise to secure the vehicles from theft and unauthorised changing of number plates.

Transport Department stated (August 2015) that different agencies have been requested to intimate the charges for checking/evaluation/testing of quality of HSRPs and snap lock. This shows that the Department had failed to ensure the quality of the plates as per agreement.

5.3.3 Non/short receipt/deposit of royalty

As per clause 14.1 and 14.3 of the agreement 'In consideration of the grant of concession, the Concessionaire shall pay to the State Government by way of five *per cent* royalty on the amount collected by the concessionaire (excluding local Sales Tax, VAT, etc.) for sale of HSRPs from vehicle owners'. Authority may satisfy itself that the contractor is reporting the actual collection of amount on the affixation of HSRPs.

(i) Data analysis at the Transport Department Haryana, showed that, the concessionaire collected an amount of ₹ 19.62 crore upto 31 March 2015 on account of affixation of HSRPs. Thus, royalty of ₹ 98.05 lakh was required to be deposited in Government account. However, the Concessionaire deposited ₹ 80.65 lakh resulting in short deposit of royalty of ₹ 17.40 lakh.

(ii) Audit also noticed (December 2014 to May 2015) from the records of seven districts, that out of 8,54,257 motor vehicles registered between June 2012 and March 2015, HSRPs were affixed on 4,06,108 new vehicles. As the Department failed to get affixed HSRPs on remaining 4,48,149 vehicles, the Government was deprived of royalty of ₹ 29.87 lakh which could have been collected for affixation of HSRPs on such vehicles.

All the Registering Authorities stated that it was the responsibility of the vehicle owners to get HSRPs affixed. The reply was not tenable as it was the responsibility of the RTAs and RLA (MVs) to ensure that no registration certificate was issued without affixing the HSRPs. Thus, there was lack of monitoring on the part of RTA/RAs.

5.3.4 Non renewal of licenses of Pollution Check Centers

Rule 162-A of Haryana Motor Vehicles Rules, 1993 provides that every motor vehicle shall have to carry a valid "Pollution Under Control Certificate (PUCC)" issued for a period of six months by the Transport Department, or, by any Pollution Check Centre (PCC) duly authorised by the Transport Department. The fee for the issue and renewal of PCC license shall be ₹ 2,500 per annum.

PCC owner should be matriculate, a technician with ITI Diploma in Motor Mechanic and having a workshop for minor repair. He should submit proof of purchase of smoke meter and an exhaust gas analyzer approved by the Government of India. The Enforcement officer may check working of any PCC falling in his jurisdiction. If any PCC owner is violating the aforesaid terms and conditions, he may pass an order to stop the PCC activity or suspend/cancel the PCC.

Audit noticed (December 2014 to May 2015) from the records in the offices of five⁹ RTAs, that out of 629 licenses, 110 licenses of PCCs were not getting renewed by the owners for the period between January 2011 and December 2014. The Department had neither issued notices to recover the pending license fee of ₹ 6.10 lakh for the periods 2011-12 to 2013-14 nor the licence was suspended/cancelled.

Four RTAs stated in May 2015 that notices would be issued to the defaulters.

5.3.5 Non renewal of licenses of Driving Training Schools

As per Rule 24 (4) of CMV Rules, the licensing authority can grant or renew a license to a person who wants to maintain a Driving School or establishment on payment of ₹ 2,500 for a period of five years. The premises where the school or establishment is proposed to be conducted is either owned by the applicant or is taken on lease by him or is hired in his name. The minimum educational qualification of the staff is 10th standard and the driving instructor(s) also possesses at least five years driving experience and certification in Motor mechanic. The vehicles are available exclusively for the purpose of imparting instruction and fitted with dual control facility to enable the instructor to control or stop the vehicle. He should keep the premises of the school, record and registers maintained by it at all reasonable times open for inspection by the licensing authority.

Audit noticed (December 2014 to May 2015) from the records in the offices of four¹⁰ RTAs, that 35 out of 67 Driving Training Schools, had not renewed their licenses after expiry of validity period. However, the Department had neither issued notice to recover the pending license fee ₹ 1.01 lakh from the defaulting Driving School owners nor the licence was suspended/cancelled.

RTA Rohtak and Gurgaon stated (May 2015) that notices would be issued to defaulters for recovery.

Thus, HSRPs affixed were without snap lock which was mandatory for better security, affixation of HSRPs on new registered vehicles ranged between 27 and 81 *per cent* and replacement of HSRPs on old vehicle had not started. There was no monitoring to ascertain the actual collection of royalty/short deposit of royalty. Due to lack of monitoring and follow up action, the department had failed to issue notices to recover pending licence fees from the defaulting PCC owners/Driving Training Schools resulting in non recovery of license fee of ₹ 7 lakh.

⁹ Ambala, Bahadurgarh, Gurgaon, Rohtak and Yamunanagar.

¹⁰ Ambala, Gurgaon, Rohtak and Yamunanagar.

The above point was reported to the Government in July 2015; reply has not been received (November 2015).

5.4 Suspected misappropriation of Government Receipt

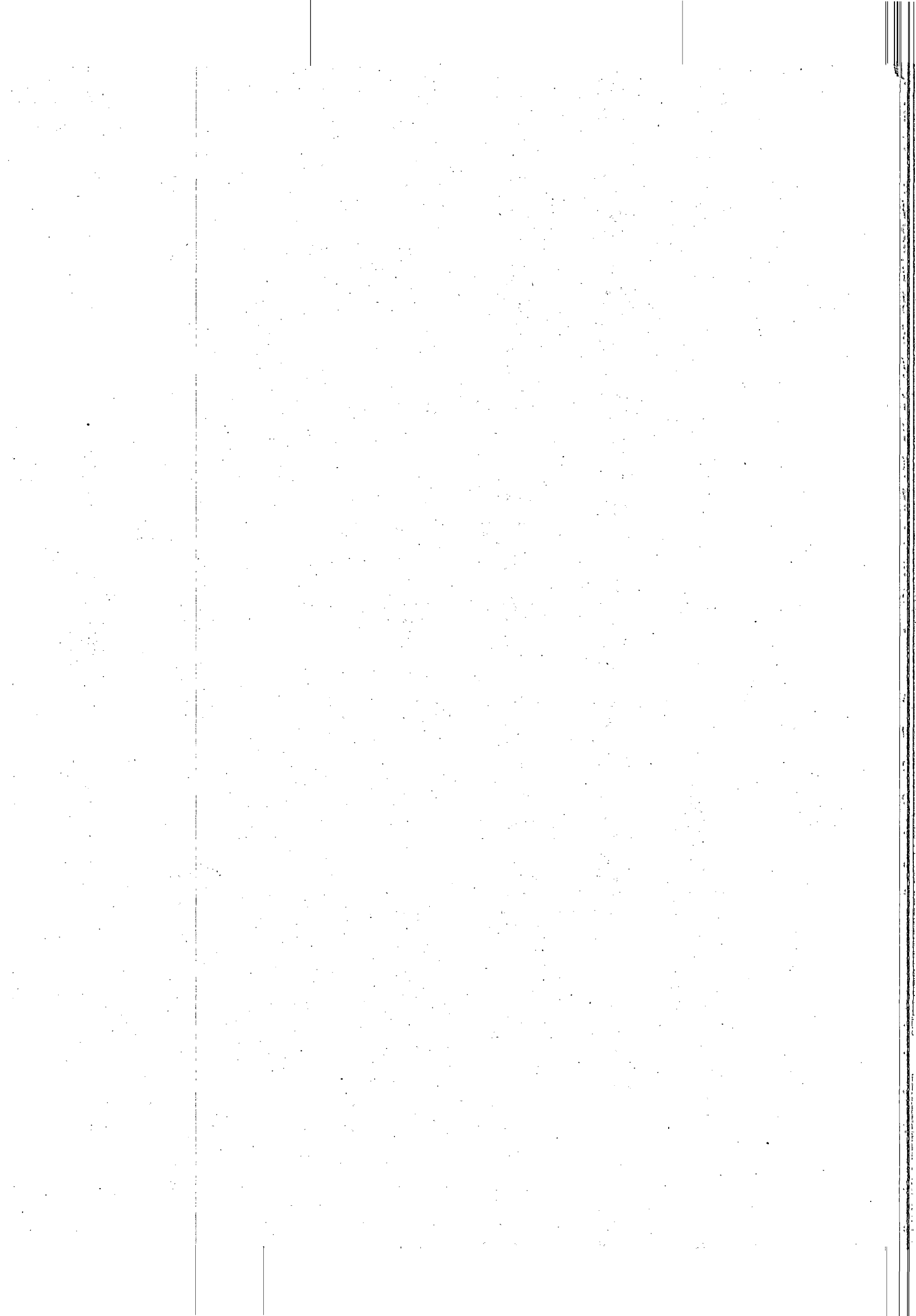
Non-observance of the financial rules by the controlling officer resulted in suspected misappropriation of Government money of ₹ 4.46 lakh.

Rule 2.2 and 2.7 of the Punjab Financial Rules (PFR), as adopted by the Haryana Government, requires a Drawing and Disbursing Officer (DDO) to satisfy himself that all the monetary transactions are entered in the cash book as soon as they occur and are attested by him. Rule 2.7 *ibid* provides that the official who is not in charge of the cash book, receives the money on behalf of the Government is required to deposit the amount into the treasury/bank on the same day or in the morning of the next day. The head of the office under Rule 2.2 (iii) is also required to verify all the entries including totals of all the entries in the cash book or have this done by some responsible official other than the writer of the cash book and initial that all entries are correct. As per Rule 2.2 (v), a consolidated receipt for all the remittances should be obtained from the treasury by the 15th of the following month and compared with the entries in the cash book.

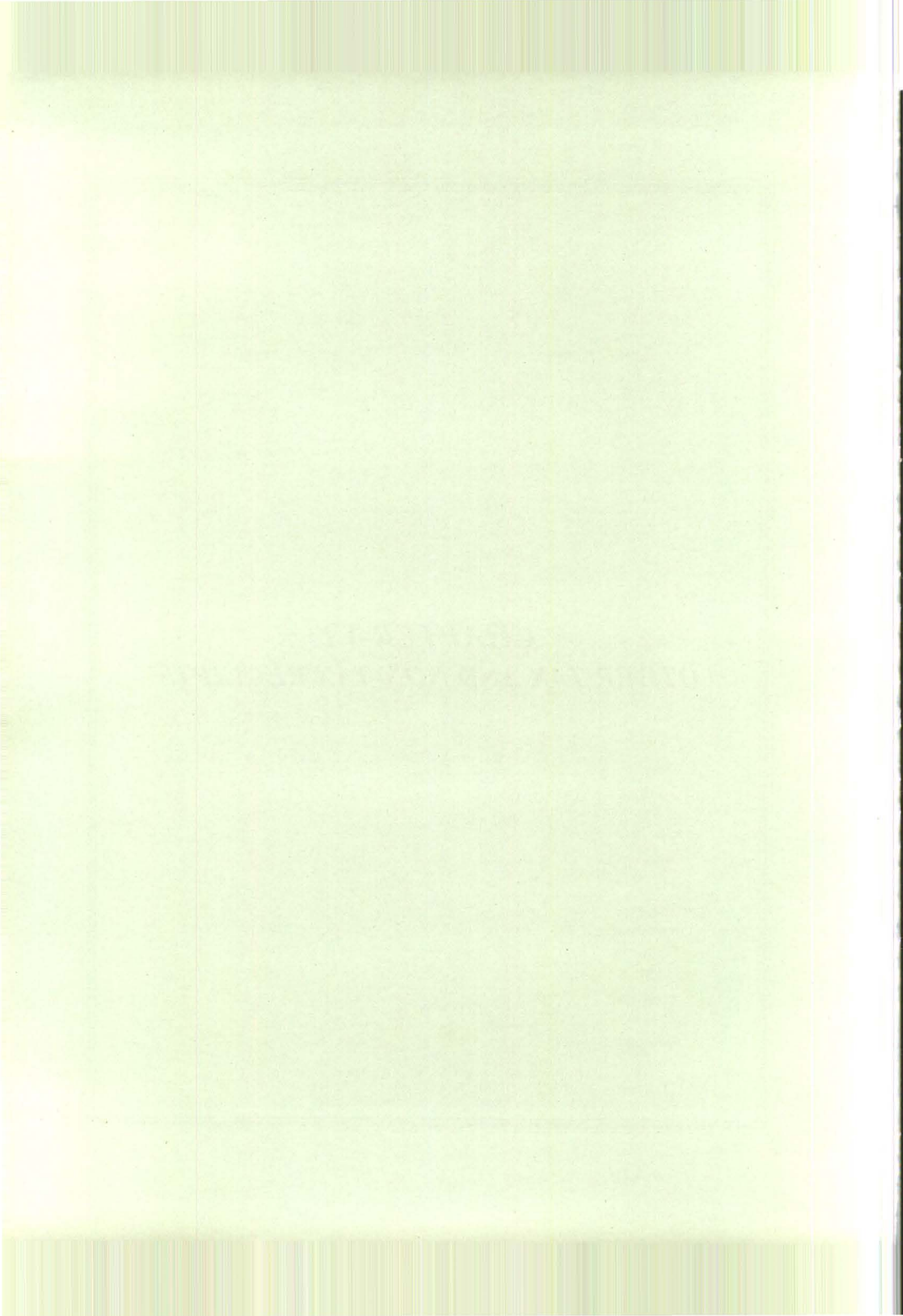
Audit noticed (November 2014) from the Daily Collection Register (DCR)/ Consolidated Treasury Receipt Register (CTR), receipt books and RC register of the Registering and Licensing Authority (Motor Vehicles) {RLA (MVs)}, Bhiwani for the years 2012-13 and 2013-14, that an amount of ₹ 12.68 lakh was collected on account of issue/renewal of driving licenses for the periods May, June and September 2012. Out of ₹ 12.68 lakh, an amount of ₹ 4.46 lakh was not deposited in Treasury/Government account even after the lapse of three years of the collection. The Controlling officer neither checked/signed the DCR for the period from May to September 2012 nor cross verified entries in the DCR with that of treasury record for the periods April 2012 to May 2013. Thus, non-observance of the financial rules by the controlling officer resulting in suspected misappropriation of Government money of ₹ 4.46 lakh.

RLA (MV), Bhiwani admitted to the facts and stated (August and October 2015) that an amount of ₹ 3.86 lakh had been recovered and deposited in Government treasury in July and October 2015. However, notice had been issued to recover the balance amount of ₹ 60,000 (November 2015).

The matter was reported to the Government in July 2015; reply has not been received (November 2015).



CHAPTER-VI
OTHER TAX AND NON-TAX RECEIPTS



CHAPTER VI: OTHER TAX AND NON-TAX RECEIPTS

6.1.1 Tax administration

This chapter consists of receipts from Entertainment Duty, Power (Taxes and duties on electricity), Mines and Geology and Land Revenue. The administration is governed by Acts/Rules framed separately for each Department.

6.1.2 Results of audit

Audit check of the records of 52 units during 2014-15 relating to Mines and Geology, Power Department (Taxes and duties on electricity), Land Revenue and Excise and Taxation Department (Entertainment Duty) showed non/short recovery of royalty, non levy of interest and other irregularities involving ₹ 1.26 crore in 4,493 cases, under the following categories in **Table 6.1**.

Table 6.1

(₹ in crore)			
Sr. No.	Categories	Number of cases	Amount
1.	Non/short recovery of <ul style="list-style-type: none">• royalty and interest• electricity installation fees	144 4,273	0.47 0.10
2.	Non deposit of copying and mutation fee	75	0.05
3.	Miscellaneous irregularities (Entertainment Duty)	1	0.64
Total		4,493	1.26

During the year, the Department accepted underassessment and other deficiencies amounting to ₹ 0.30 crore in 4,280 cases, out of which ₹ 0.21 crore involved in 4,253 cases were pointed out during the year and the rest in earlier years. The Department recovered ₹ 0.10 crore in 40 cases, out of which ₹ 0.01 crore involved in 13 cases relates to the year 2014-15 and the rest to earlier years.

Significant case involving ₹ 24.92 lakh is discussed in following paragraph:

MINES AND GEOLOGY DEPARTMENT

Audit findings

6.2 Non/short recovery of royalty and interest

Royalty and interest amounting to ₹ 24.92 lakh was not recovered from 81 brick kiln owners, who were issued permits between April 2011 and April 2014 in respect of five Districts.

Rule 30 of the Haryana Minor Mineral Concession, Stocking, transportation of Mineral and Prevention of illegal Mining Rules, 2012 provides that brick kiln owners (BKO) shall pay annual amount of royalty at the prescribed rate in advance by 30th April of every year. State Government revised the rates of fixed royalty of various categories of BKOs with effect from 20 June 2012 and the BKOs shall pay annual amount of royalty at the prescribed rate in advance by 1st April of every year. In case payment is made after seven days but up to 30 days of the due date, after 30 days but within 60 days of the due date and beyond 60 days of the due date, interest at the rate of 15, 18 and 21 *per cent* (for the entire period of default) per annum respectively is chargeable for the period of default. BKOs register is maintained at each mining office for levy and collection of royalty. The permits of such BKOs who do not pay royalty are required to be cancelled by the department by giving one month's notice and any sum due from the permit holders on account of royalty and interest thereon is recoverable as arrears of land revenue. The Assistant Mining Engineers (AMEs)/Mining Officers (MOs) are responsible for monitoring recovery of outstanding dues.

Audit noticed (December 2013 to October 2014) from the records of five offices¹ of MOs/AMEs, that out of 1061 BKOs, 81 BKOs, who were issued permits between April 2011 and April 2014 for the period of two years did not pay due amount of royalty. Though, a period ranging between 21 to 48 months had elapsed upto March 2014, yet royalty of ₹ 15.48 lakh was neither paid by the BKOs nor any action was taken by the department to recover the same. No action to cancel the permits and/or to recover the dues as arrears of land revenue was taken. Lack of action on the part of the department resulted in non-realisation of royalty of ₹ 15.48 lakh besides interest of ₹ 9.44 lakh.

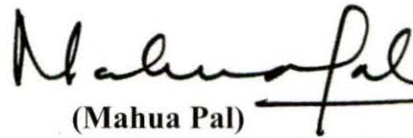
¹ AMEs/MOs: Ambala, Faridabad, Hisar, Jind and Narnaul.

All the AMEs/MOs admitted the facts and stated (February 2014 to April 2015) that an amount ₹ 1.74 lakh had been recovered and notices had been issued to the concerned BKO to recover the outstanding amount of ₹ 23.18 lakh. Further progress report on recovery is awaited (November 2015).

The matter was reported to the Government in May 2015; reply has not been received (November 2015).

Chandigarh
The

29 FEB 2016



(Mahua Pal)

Principal Accountant General (Audit), Haryana

Countersigned

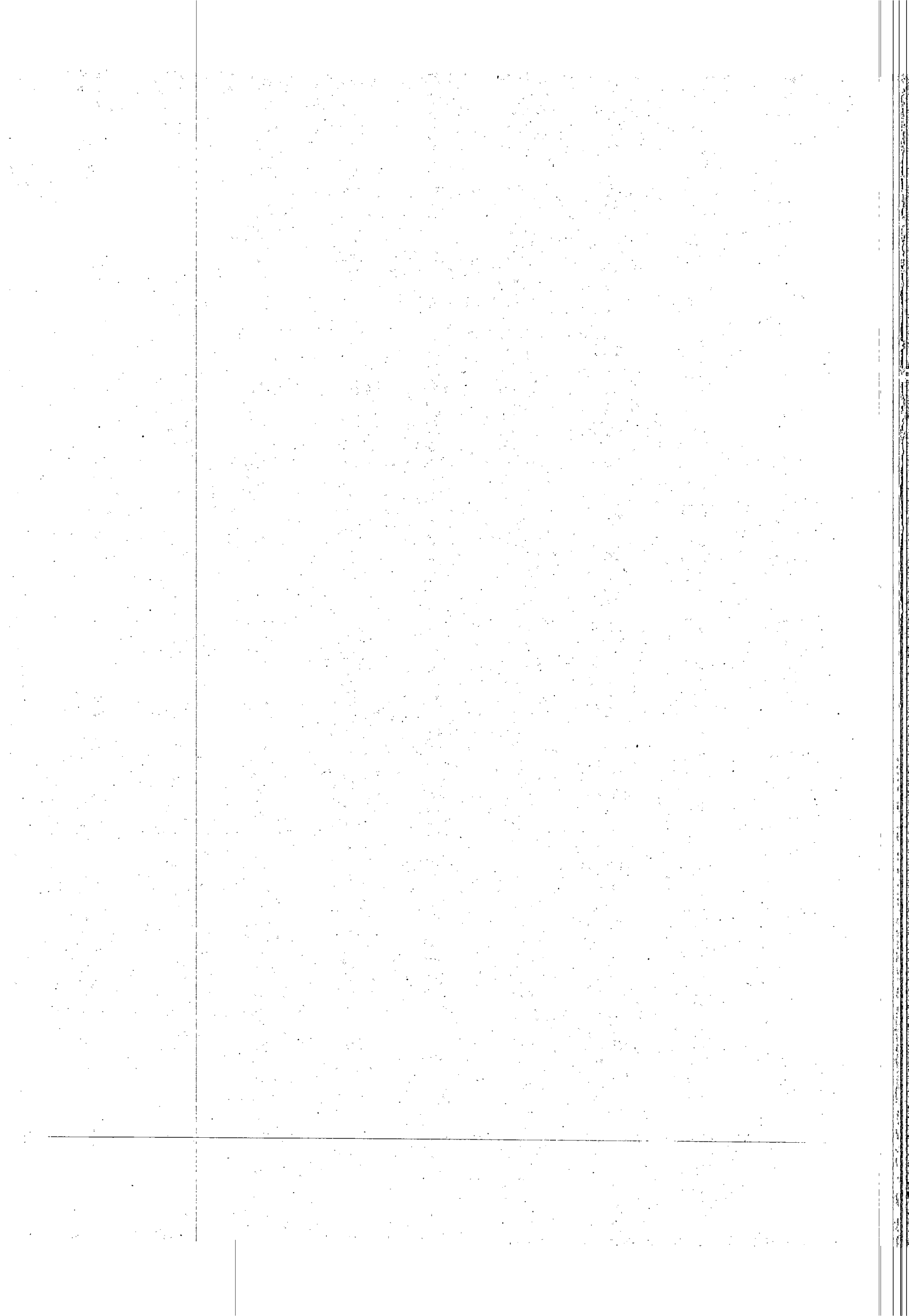
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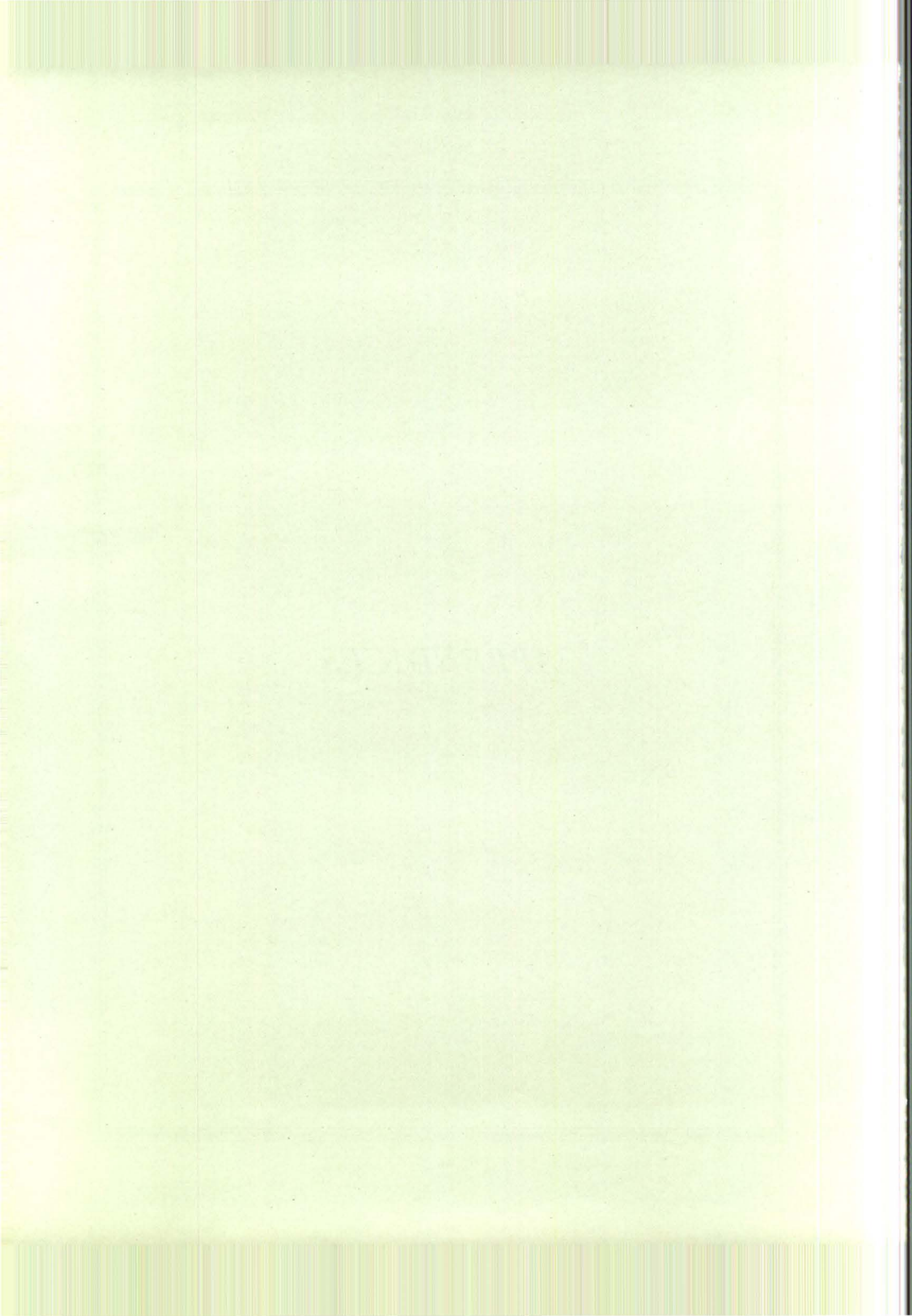


(Shashi Kant Sharma)

Comptroller and Auditor General of India



APPENDICES



Annexure I
(Refer Paragraph No. 1.6.5)

Position of paragraphs which appeared in the Audit Reports and those pending discussion/ replies not received as on 31 October 2015.

Name of tax		2010-11	2011-12	2012-13	2013-14	Total
Taxes on Sales, Trade etc.	Paras appeared in the AR/pending discussion in the PAC	12	9	4	9	34
	Paras replies not received	0	0	4	9	13
Taxes on Motor Vehicles	Paras appeared in the AR/pending discussion in the PAC	3	1	1	2	7
	Paras replies not received	2	1	1	2	6
Stamp duty and Registration fee	Paras appeared in the AR/pending discussion in the PAC	6	6	8	7	27
	Paras replies not received	0	6	8	7	21
State Excise/PGT	Paras appeared in the AR/pending discussion in the PAC	1	3	4	5	13
	Paras replies not received	0	0	4	5	9
Others	Paras appeared in the AR/pending discussion in the PAC	1	1	1	1	4
	Paras replies not received	1	1	1	1	4
Total	Paras appeared in the AR/pending discussion in the PAC	23	20	18	24	85
	ATENS to Paras included in AR not received	3	8	18	24	53

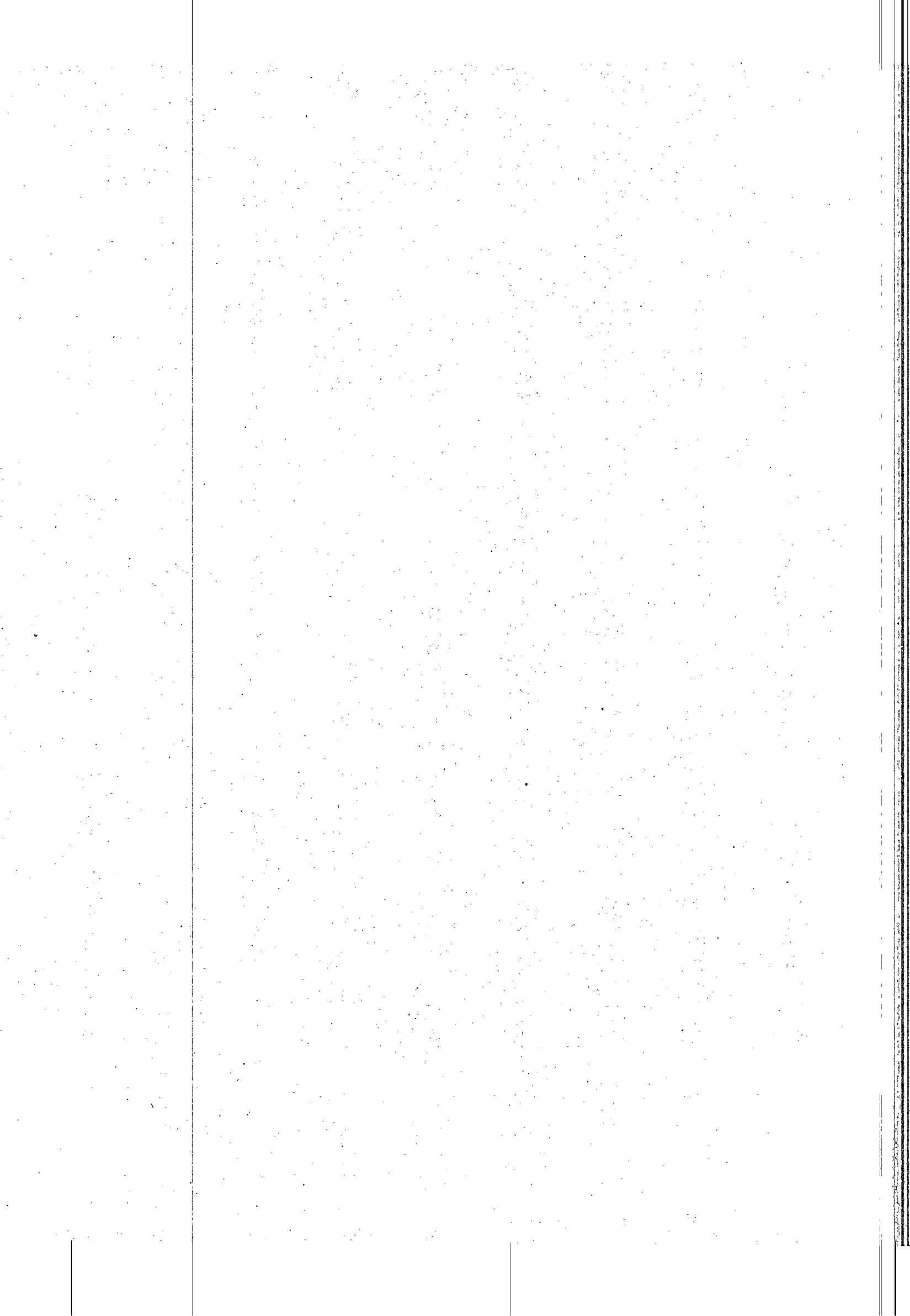
ANNEXURE II
(Refer Paragraph No. 1.6.5)
Details of PAC recommendations for CAG Report (Revenue Receipts)
outstanding as on 31 October 2015

Sr. No.	PAC Report	Year of Audit Report	Total nos. of outstanding paras of PAC Reports 1979-80 to 2009-10 as on 31-10-2015
1	22nd	1979-80	3
2	23rd	1980-81	4
3	25th	1981-82	4
4	26th	1982-83	3
5	28th	1983-84	2
6	29th	1984-85	7
7	32nd	1985-86	4
8	34th	1986-87	11
9	36th	1987-88	6
10	38th	1988-89	10
11	40th	1989-90	21
12	42nd	1990-91,91-92,92-93	26
13	44th	1990-91,91-92,92-93	39
14	46th	1993-94	9
15	48th	1993-94,1994-95	10
16	50th	1993-94,1994-95,1995-96	40
17	52nd	1996-97	30
18	54th	1997-98	43
19	58th	1998-99 & 1999-2000	64
20	60th	2000-01	38
21	62nd	2001-02	42
22	63rd	2002-03	46
23	64th	2003-04	52
24	65th	2004-05	50
25	67th	2005-06	48
26	68th	2006-07 & 2007-08	100
27	70th	2008-09	56
28	71th	2009-10	52
Total			820

ANNEXURE III
(Refer Paragraph No. 1.6.5)

Details of PAC recommendations for CAG Report
(Revenue Receipts/Sector) outstanding as on 31 October 2015

Sr. No	Name of the Department	Total recommendations outstanding for the period 1979-80 to 2009-10
1	Excise and Taxation	379
2	Revenue	172
3	Mines and Geology	46
4	Agriculture	41
5	Irrigation	16
6	Chief Electrical Inspector (Power)	17
7	Public Health	6
8	PWD (B&R)	5
9	Animal Husbandry	7
10	Transport	56
11	Finance (Lotteries)	15
12	Haryana State Lotteries	2
13	Co-operative	20
14	Forest	11
15	Home	16
16	Urban Development	2
17	Medical and Health	4
18	Industries	1
19	General	1
20	Town and Country Planning	3
	Total	820



GLOSSARY

GLOSSARY OF ABBREVIATIONS

AAs	Assessing Authorities
ACS	Additional Chief Secretary
AETC	Assistant Excise and Taxation Commissioner
AETOs	Assistant Excise and Taxation Officers
AMEs	Assistant Mining Engineers
ATENs	Action Taken Explanatory Notes
BBMB	Bhakra Beas Management Board
BEs	Budget Estimates
BIFR	Board of Industrial and Financial Reconstruction
BKOs	Brick Kiln Owners
CL	Country Liquor
CMVR	Central Motor Vehicles Rules, 1989
CST Act	Central Sales Tax Act, 1956
CTR	Consolidated Treasury Receipt Register
DCR	Daily Collection Register
DCs	Deputy Commissioners
DDO	Drawing and Disbursing Officer
DEPB	Duty and Entitlement Pass Book
DETC	Deputy Excise and Taxation Commissioner
DHBVNL	Dakshin Haryana Bijli Vitran Nigam Limited
DMRC	Delhi Metro Rail Corporation
ETC	Excise and Taxation Commissioner
ETOs	Excise and Taxation Officers
GOI	Government of India
GTO	Gross Turnover
HARIS	Haryana Registration Information System
HDPE	High Density Polyethylene
HLL Rules	Haryana Liquor License Rules, 1970
HSRPs	High Security Registration Plates
HVAT Act	Haryana Value Added Tax Act, 2003
IGR	Inspector General of Registration
IMFL	Indian Made Foreign Liquor
IOCL	Indian Oil Corporation Limited

Report for the year 2014-15 (Revenue Sector)

IR Act	Registration Act, 1908
IRs	Inspection Reports
IS Act	Indian Stamp Act, 1899
ITC	Input Tax Credit
JETC	Joint Excise and Taxation Commissioner
JSR	Joint Sub Registrar
MOs	Mining Officers
MS Pipes	Mild Steel Pipes
MV Act	Motor Vehicles Act, 1988
PAC	Public Accounts Committee
PAG	Principal Accountant General (Audit)
PCC	Pollution Check Centre
PFRRs	Punjab Financial Rules
PGT	Passengers and Goods Tax
PMVT Act	Punjab Motor Vehicles Taxation Act, 1924
PPGT Act	Punjab Passengers and Goods Taxation Act, 1952
PUCC	Pollution Under Control Certificates
RA (MV)	Registering Authority (Motor Vehicles)
RAs	Revisional Authorities
RC	Registration Certificate
RF	Registration Fees
RLA	Registering and Licensing Authority
RTA	Regional Transport Authority
SD	Stamp Duty
SED	State Excise Duty
SR	Sub Registrar
SS Pipes	Stainless Steel Pipes
TINXSYS	Tax Information Exchange System
UHBVNL	Uttar Haryana Bijli Vitran Nigam Limited
VAT	Value Added Tax
WCT	Works Contract Tax