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Report of the
Comptroller and Auditor General of India
on
Revenue Sector

for the year ended March 2014

Government of Tamil Nadu
Report No. 2 of the year 2015

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Figure 1 is a schematic diagram of the experimental setup. It shows a subject seated at a table, looking at a video screen. A camera is positioned above the screen. A horizontal bar is placed on the table, and a vertical bar is placed on the floor. The subject is instructed to move the horizontal bar towards the vertical bar.

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PREFACE

This Report for the year ended March 2014 has been prepared for submission to the Governor of the State of Tamil Nadu under Article 151 of the Constitution of India.

The Report contains significant results of the performance audit and compliance audit of the Departments of the Government of Tamil Nadu under the Revenue Sector including Departments of Commercial Taxes and Registration and Home (Transport).

The instances mentioned in this Report are those, which came to notice in the course of test audit for the period 2013-14 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 2013-14 have also been included, wherever necessary.

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

OVERVIEW

The report contains 20 paragraphs, including one Performance Audit, relating to non/short levy of taxes, royalty, interest, penalty, etc. involving ₹ 825.02 crore. Some of the major findings are mentioned below:

I General

The total revenue receipts of the State during 2013-14 were ₹ 1,08,036.42 crore, comprising tax revenue of ₹ 73,718.11 crore and non-tax revenue of ₹ 9,343.27 crore. ₹ 15,852.76 crore was received from the Government of India as State's share of divisible Union taxes and ₹ 9,122.28 crore as grants-in-aid. The revenue raised by the State Government in 2013-14 was 77 *per cent* of the total revenue receipts as compared to 79 *per cent* in 2012-13. Sales tax (₹ 53,532.17 crore) formed a major portion (73 *per cent*) of the tax revenue of the State. Interest receipts, dividends and profits (₹ 3,422.77 crore) accounted for 37 *per cent* of the non-tax revenue.

(Paragraph 1.1)

Test check of records relating to commercial taxes, state excise, motor vehicles tax, stamp duty and registration fees, electricity tax and mines and minerals, during the year 2013-14 revealed under-assessments, short levy, loss of revenue and other observations amounting to ₹ 1,088.74 crore in 3,230 cases.

(Paragraph 1.9)

II Sales Tax / Value Added Tax

Performance Audit on “**Enforcement Activities of the Commercial Taxes Department**” revealed the following:

- Absence of an effective monitoring system was evident from non-conduct of VAT audit/surprise inspection in selected cases and delay in communication of VAT audit notes/surprise inspection proposals to the assessment circles for implementation.

(Paragraphs 2.4.7.4 to 2.4.7.6)

- Large scale omission in capturing details of vehicle movement in the Commodity Movement Monitoring Module resulted in ineffective monitoring of movement of goods across the check posts.

(Paragraph 2.4.8.1)

- Failure of the officer in-charge of the check posts to initiate action to levy tax and penalty in respect of transit passes, which were not surrendered at the exit check posts, exposes inadequacies as also the ineffective monitoring of surrender of transit passes.

(Paragraph 2.4.8.3)

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

(Paragraph 2.4.9.1)

- Non-filing of returns/filing of 'Nil' returns, non/short reporting of imports and filing of annual return by dealers, who imported goods during the years 2011-12 and 2012-13, resulted in non-levy of tax and penalty of ₹ 257.34 crore and ₹ 386.01 crore respectively.

(Paragraphs 2.4.9.2 to 2.4.9.4)

- Finalisation of assessments in three cases on the basis of incorrect proposals forwarded by the Enforcement Wing and on the basis of incomplete details of imports in database of Commercial Taxes Department resulted in incorrect computation of taxable turnover and consequent non-levy of tax and penalty of ₹ 123.13 crore.

(Paragraph 2.4.9.6)

Audit of "Issue of e-Transit Pass and e-Payment" revealed the following:

- Absence of proper documentation for system design, user requirement specifications and system requirement specifications led to risk of management losing control of ownership/deliverables of the project.

(Paragraph 2.5.6)

- Lack of input validation, process and security controls led to incomplete, unreliable and inaccurate data in the e-Transit Pass system.

(Paragraph 2.5.6)

- Inadequate and ineffective monitoring of controlling officers resulted in failure of assessing officers to take timely action on non-surrender of e-Transit Passes at the intended check posts and to invoke the provisions of the Tamil Nadu Value Added Tax Act to levy tax and penalty.

(Paragraph 2.5.7)

- A survey conducted among dealers by audit revealed that 36 *per cent* of the dealers were dissatisfied with very poor server response time indicating thereby a risk of dealers becoming discouraged to utilize the e-Payment system and opting out.

(Paragraph 2.5.9)

Audit of “a few evasion prone commodities - Marbles, Tiles and Granite” revealed the following:

- The instructions of the Commissioner of Commercial Taxes regarding the procedures to be followed for monitoring the filing of returns by dealers after grant of Registration Certificate and verification of claim of input tax credit was not adhered to by the assessing authorities.

(Paragraphs 2.6.4 and 2.6.5)

- Co-ordination was not established with the Geology and Mining Department, as a result of which, the Commercial Taxes Department was not able to ensure the proper accounting of granite excavated inside the State by lessees of mining leases.

(Paragraph 2.6.6)

Other Audit observations

Audit noticed short levy of tax of ₹ 81.91 lakh in 18 cases of 12 assessment circles due to application of incorrect rate of tax.

(Paragraph 2.7.1)

Audit noticed short levy of tax of ₹ 59.52 lakh in eight cases of eight assessment circles due to incorrect allowance of compounded rate of tax.

(Paragraph 2.7.3)

Audit noticed irregularities in claim of input tax credit of ₹ 5.74 crore in 68 cases.

(Paragraph 2.7.5)

Non/short reversal of input tax credit of ₹ 4.90 crore was noticed in 50 cases involving inter-State sales not covered by declaration forms and stock transfer of goods to other States.

(Paragraph 2.7.6)

Application of incorrect rate of tax on inter-State sales of capital goods and industrial inputs, not covered by valid declaration forms, resulted in short levy of tax of ₹ 4.07 crore.

(Paragraph 2.7.8.1)

Incorrect computation of taxable turnover of an assessee resulted in short levy of tax of ₹ 6.37 crore.

(Paragraph 2.7.9)

III Stamp duty and Registration fees

The notification granting remission of stamp duty issued under the Tamil Nadu Co-operative Societies Act, 1961 was incorrectly extended to four societies registered under the Multi-State Co-operative Societies Act, 2002, which resulted in non-realisation of stamp duty of ₹ 7.59 crore.

(Paragraph 3.4.1.1)

Short levy of stamp duty and registration fees of ₹ 4.60 crore due to failure to adopt the guideline value, misclassification of nature of property and undervaluation of property was noticed in 667 documents.

(Paragraph 3.4.3)

IV Taxes on Vehicles

Audit of “Administration of Road Safety Fund” revealed the following:

- The allocation of funds to Road Safety Fund during the period from 2009-10 to 2013-14 constituted only 35 *per cent* of the total receipts from spot fine, compounding fee and road safety tax.

(Paragraph 4.4.2)

- The envisaged reduction of 20 *per cent* in the number of fatal accidents by the end of the year 2013, when compared to the base year figure of 2006, was not achieved.

(Paragraph 4.4.5)

CHAPTER I
GENERAL

CHAPTER I

GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Tamil Nadu during the year 2013-14, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in Table 1.1.1.

Table: 1.1.1
Trend of revenue receipts

(₹ in crore)						
Sl. No.	Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
1.	Revenue raised by the State Government					
	• Tax revenue	36,546.66	47,782.17	59,517.66	71,254.27	73,718.11
	• Non-tax revenue	5,027.05	4,651.45	5,683.57	6,554.26	9,343.27
	Total	41,573.71	52,433.62	65,201.23	77,808.53	83,061.38
2.	Receipts from the Government of India					
	• State's share of divisible Union taxes	8,756.20	10,913.98	12,714.60	14,519.69	15,852.76 ¹
	• Grants-in-aid	5,514.22	6,840.02	7,286.31	6,499.48	9,122.28
	Total	14,270.42	17,754.00	20,000.91	21,019.17	24,975.04
3.	Total revenue receipts of the State Government (1 + 2)	55,844.13	70,187.62	85,202.14	98,827.70	1,08,036.42
4.	Percentage of 1 to 3	74	75	77	79	77

Source: Finance Accounts of Government of Tamil Nadu

The above table indicates that during the year 2013-14, the revenue raised by the State Government (₹ 83,061.38 crore) was 77 per cent of the total revenue receipts as against 79 per cent in the preceding year. The balance 23 per cent of the receipts during 2013-14 were from the Government of India.

¹ For details please see Statement No. 11 – Detailed statements of revenue by minor heads of the Finance Accounts of the Government of Tamil Nadu for the year 2013-14. Figures under the head '0021 – Taxes on income other than Corporation Tax – Share of net proceeds assigned to States' booked in the Finance Accounts under 'A – Tax revenue' have been excluded from the revenue raised by the State and included in 'State's share of divisible Union taxes' in this statement.

1.1.2 The following table presents the details of tax revenue raised during the period from 2009-10 to 2013-14.

Table: 1.1.2
Details of Tax Revenue raised

(₹ in crore)

Sl. No.	Head of revenue	2009-10		2010-11		2011-12		2012-13		2013-14		Percentage of increase (+) or decrease (-) in 2013-14 over 2012-13
		Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	
1.	Sales tax/VAT	23,242.53	22,661.52	25,504.65	28,614.23	33,393.95	36,288.90	44,007.69	44,041.13	52,826.74	53,532.17	(+)21.55
2.	State Excise	6,565.56	6,740.68	7,508.18	8,115.94	8,935.23	9,975.21	11,473.97	12,125.68	14,469.87	5,034.91	(-)58.48
3.	Stamp Duty and Registration fees	5,093.99	3,662.16	4,096.18	4,650.59	5,856.07	6,580.78	8,466.94	7,645.40	9,874.22	8,251.25	(+)7.92
4.	Taxes on Vehicles	1,994.38	2,024.64	2,396.42	2,660.05	3,033.11	3,101.09	4,141.11	3,928.43	4,881.15	3,683.58	(-)6.23
5.	Land Revenue	29.98	116.66	38.79	113.28	70.82	87.21	80.02	131.31	112.38	272.83	(+)107.78
6.	Taxes on immovable property other than agricultural land (urban land tax)	17.94	12.01	18.84	10.21	12.61	10.89	10.52	16.75	18.09	11.52	(-)31.22
7.	Others	1,633.02	1,328.99	1,875.25	3,617.87	2,480.75	3,473.58	3,280.29	3,365.57	3,882.94	2,931.85	(-) 12.89
	Total	38,577.40	36,546.66	41,438.31	47,782.17	53,782.54	59,517.66	71,460.54	71,254.27	86,065.39	73,718.11	

Source: Finance Accounts of Government of Tamil Nadu

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

Sales tax/VAT: The increase of revenue was due to higher revenue realised from non-VAT goods and increase in tax rates at the second point of sale by Tamil Nadu State Marketing Corporation Limited (TASMAC).

State Excise: The decrease in revenue was mainly due to abolition of vend fee and special privilege fee.

Land Revenue: The increase was mainly due to increase in revenue under 'sale proceeds of Waste lands and Redemption of Land tax' and 'receipts in connection with survey and settlement operations'.

1.1.3 The following table presents the details of non-tax revenue raised during the period from 2009-10 to 2013-14.

Table: 1.1.3
Details of Non-tax revenue raised

(₹ in crore)

Sl. No.	Head of revenue	2009-10		2010-11		2011-12		2012-13		2013-14		Percentage of increase (+) or decrease (-) in 2013-14 over 2012-13
		Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	
1.	Interest receipts, dividends and profits	993.74	1,845.61	1,372.64	1,689.78	1,678.33	2,056.89	1,786.87	2,053.88	1,548.98	3,422.77	(+) 66.65
2.	Crop Husbandry	86.07	92.54	87.77	116.30	99.03	125.32	127.25	125.85	120.04	213.77	(+) 69.86
3.	Forestry and wild life	72.01	86.90	90.14	139.22	121.33	105.86	158.57	93.94	98.65	193.87	(+) 106.37
4.	Non-Ferrous Mining and Metallurgical industries	725.06	610.89	634.71	675.87	647.44	943.83	850.96	927.19	1,078.64	933.28	(+) 0.66
5.	Education, Sports, Art and culture	320.91	383.64	531.32	518.83	786.99	483.26	911.34	751.88	1,565.12	1,693.29	(+) 125.21
6.	Other receipts	1,206.47	2,007.47	1,384.70	1,511.45	1,511.45	1,968.41	2,197.62	2,601.52	2,353.66	2,886.29	(+) 10.95
	Total	3,404.26	5,027.05	4,101.28	4,651.45	4,844.57	5,683.57	6,032.61	6,554.26	6,765.09	9,343.27	

Source: Finance Accounts of Government of Tamil Nadu

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

Interest Receipts: Increase was mainly due to realisation of Interest on belated payment of Electricity tax, Ways and Means Advances and “Interest on investment of Defined Contribution Pension Scheme Deposits for Government Servants”.

Crop Husbandry: Increase in revenue was mainly due to recoveries of overpayments in Oil Seeds Department.

Forestry and wild life: Increase in revenue was mainly due to receipts on account of sale of Sandalwood.

Education, Sports, Art and Culture: Increase was mainly due to increase in revenue under ‘Receipts for payment of teachers in Government High Schools and Higher Secondary Schools under Sarva Shiksha Abhiyan Scheme’ and under “Other receipts” under “Elementary Education” under “General Education”.

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2014 on some principal heads of revenue amounted to ₹ 24,104.66 crore, of which ₹ 8,733.39 crore was outstanding for more than five years, as detailed in the **Table 1.2**.

Table: 1.2
Arrears of revenue

(₹ in crore)

Sl.No.	Head of revenue	Total amount outstanding as on 31 March 2014	Amount outstanding for more than five years as on 31 March 2014	Replies of Department
1.	Sales Tax / VAT	20,710.32	6,093.95	Demands of ₹ 2,529.52 crore were covered by Recovery Certificates. Recovery of ₹ 1,829.68 crore was stayed by High Court and other judicial authorities. The Government stayed the collection of ₹ 28.87 crore. Recovery stayed by rectification / review application was for ₹ 170.60 crore. Amount of ₹ 519.43 crore was likely to be written off. The amount of arrears covered by waiver and deferral schemes were ₹ 124.25 crore and ₹ 3,175.52 crore respectively. Amount of ₹ 716.48 crore was proposed to be eliminated. Remaining arrears of ₹ 11,615.97 crore were at various stages of collection.
2.	Stamp Duty and Registration Fees	311.03	197.05	Demands of ₹ 308.19 crore were covered by Recovery Certificates and collection of ₹ 2.84 crore was stayed by High Court and other judicial authorities.
3.	State Excise	35.75	35.75	Demands of ₹ 17.62 crore was covered by Recovery Certificates. Recovery of ₹ 1.25 crore was stayed by High Court and other judicial authorities. Amount likely to be written off was ₹ 5.73 crore. Remaining arrears of ₹ 11.15 crore were at various stages of collection.
4.	Taxes on vehicles	2.10	1.52	Demands of ₹ 1.69 crore were covered by Recovery Certificates. An amount of ₹ 0.22 crore was stayed by High Court and other judicial authorities. Remaining arrears of ₹ 0.19 crore were at various stages of collection.

5.	Taxes on immovable property other than agricultural land (urban land tax)	127.41	85.27	Recovery of ₹ 14.90 crore was stayed by High Court and other judicial authorities. Collection of arrears of ₹ 3.14 crore was stayed by Government. Principal Commissioner and Commissioner of Land Revenue stayed collection of ₹ 3.25 crore. An amount of ₹ 9.18 crore has since been collected. Remaining arrears of ₹ 96.94 crore were at various stages of collection.
6	Non-Ferrous Mining and Metallurgical industries	2,792.84	2,208.88	Demand of ₹ 229.65 crore was covered by Recovery Certificates. Recovery of ₹ 1,520.59 crore was stayed by High Court and other Judicial Authorities. Arrears of ₹ 214.56 crore was stayed by Government. An amount of ₹ 7 lakh has since been collected. Remaining arrears of ₹ 828.03 crore were at various stages of collection.
7.	Electricity Taxes	125.21	110.97	The various stages of pendency of arrears were not furnished.
	Total	24,104.66	8,733.39	

Source: Replies of concerned Departments

It would be seen from the table above that recovery of ₹ 8,733.39 crore was pending for more than five years. However, recovery of some of the arrears has been stayed by the judicial authorities. The table further indicates that the amount of uncollected revenue as on 31 March 2014 was more than one-third of the sales tax/VAT revenue realised by the Department during the year 2013-14. Substantial amounts (₹ 3,086.67 crore) were covered by Recovery Certificates.

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 Commercial Taxes Department (CTD), in respect of Sales tax, are shown below in **Table 1.3**.

Table: 1.3
Arrears in assessments

Head of revenue	Opening balance	New cases due for assessment during 2013-14	Total assessments due	Cases disposed of during 2013-14	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
Sales Tax	1,802	0	1,802	1,802	0	100
VAT						
Deemed Assessments	55,894	3,72,180	4,28,074	4,28,074	0	100
Scrutiny Assessments	46,049	0	46,049	29,179	16,870	63.37

The above table indicates that though all deemed assessment cases of VAT were finalised by CTD, measures should also be taken for speedy finalisation of cases selected for detailed scrutiny.

1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected by the Commercial Taxes and Home (Transport) Departments, 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

Sl.No.	Head of revenue	Cases pending as on 31 March 2013	Cases detected during 2013-14	Total	Number of cases in which assessment/ investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalization on 31 March 2014
					Number of cases	Amount of demand (₹ in crore)	
1.	Sales Tax/VAT	3,746	5,447	9,193	4,929	7,900.29	4,368
2.	Taxes on Vehicles	75	207	282	207	0.74	75

It would be seen from the above table that the number of cases pending at the end of the year had increased when compared to those at the beginning of the year in respect of Sales Tax/VAT.

1.5 Pendency of Refund Cases

The number of refund cases pending at the beginning of the year 2013-14, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2013-14 as reported by the Departments are given in **Table 1.5** below:

Table: 1.5
Details of pendency of refund cases

Sl.No.	Particulars	(₹ in crore)			
		Sales tax/VAT		Taxes on vehicles	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	14,736	292.24	148	0.11
2.	Claims received during the year	18,829	814.07	335	0.92
3.	Refunds made during the year	14,020	462.31	285	0.93
4.	Balance outstanding at the end of year	19,545	644.00	198	0.10

The TNVAT Act provides for payment of interest, at the rate of half *per cent* per month, if the excess amount is not refunded to the dealer within 90 days from the date of the order of assessment or revision of assessment. Due to slow pace of disposal of refund cases, Government may incur liability for payment of interest.

1.6 Response of the Departments/Government towards audit

The Accountant General (Economic and Revenue Sector Audit), Tamil Nadu (AG) 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 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 the offices/Government are required to comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial replies to the AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Departments and the Government.

IRs issued upto 31 December 2013 disclosed that 28,739 paragraphs, involving ₹ 2,768.65 crore relating to 6,802 IRs, remained outstanding at the end of June 2014 as mentioned below alongwith the corresponding figures for the preceding two years in **Table: 1.6**.

Table: 1.6

Details of pending IRs

	June 2012	June 2013	June 2014
Number of IRs pending for settlement	7,008	7,524	6,802
Number of outstanding audit observations	22,320	24,237	28,739
Amount of revenue involved (₹ in crore)	3,054.95	3,622.83	2,768.65

Source: As per data maintained in office of the AG(E&RSA)

1.6.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2014 and the amounts involved are mentioned in **Table 1.6.1**.

Table: 1.6.1
Department-wise details of IRs

(₹ in crore)

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding Audit observations	Money value involved
1.	Commercial Taxes and Registration	Sales tax/Value added tax	2,319	13,965	1,335.32
		Stamp duty and registration fees	1,556	7,677	9.76
		Entry tax	164	295	5.82
		Entertainment tax	36	38	1.35
		Luxury tax	113	132	4.53
		Betting tax	11	22	0.09
2.	Revenue	Land revenue	1,197	3,719	413.67
		Urban land tax	227	590	42.10
		Taxes on agricultural income	72	175	81.03
3.	Home (Transport)	Taxes on vehicles	485	1,076	98.84
4.	Home (Prohibition and Excise)	State excise	233	303	78.53
5.	Industries	Mines and minerals	290	578	330.68
6.	Energy	Electricity duty	99	169	366.93
Total			6,802	28,739	2,768.65

Source: As per data maintained in office of the AG(E&RSA)

This large pendency of the IRs, due to non-receipt of the replies is indicative of failure to initiate action to rectify defects, omissions and irregularities pointed out by the AG in the IRs by heads of offices and departments.

1.6.2 Departmental Audit Committee Meetings

The Government set up Audit Committees (during various periods) to monitor and expedite the progress of the settlement of paragraphs in the IRs. Four meetings of Departmental Audit Committee were held with the Commercial Taxes, Home, Industries and Energy Departments during the year 2013-14. As a follow-up of the meeting held with the Commercial Taxes Department, 1,166 paragraphs involving value of ₹ 95.56 crore were settled.

1.6.3 Non-production of records to audit for scrutiny

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

During 2013-14, 26,701 sales tax assessment records relating to 183 offices were not made available for audit. Of these, 94 assessments pertain to three special circles where assessments of major dealers are dealt with.

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

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

1.6.4 Response of the Departments to draft Audit Paragraphs

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

Forty nine draft paragraphs (clubbed into 20 paragraphs, including one Performance Audit) proposed for inclusion in the Report of the Comptroller and Auditor General of India for the year ended March 2014 were forwarded to the Principal Secretaries of the respective Departments between May 2014 and October 2014. The Principal Secretaries of the Departments did not send replies to 44 draft paragraphs (November 2014). These paragraphs have been included in the Report without the response of the Principal Secretaries of the Departments concerned.

1.6.5 Follow-up on Audit Reports

With a view to ensuring accountability of the executive in respect of the issues dealt with in the Audit Reports, the Public Accounts Committee (PAC) laid down in 1997 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 thereon should be submitted by the Government within two months of tabling the Report, for consideration of the Committee. In spite of these instructions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. Reports of the Comptroller and Auditor General of India on the Revenue Receipts of the Government of Tamil Nadu containing 197 paragraphs (including Performance Audit) for the years ended 31 March 2006 to 2012 were placed before the State Legislative Assembly between May 2007 and May 2013. The explanatory notes in respect of 118 paragraphs from the Departments had not been received (November 2014). Similarly, explanatory notes in respect of a Performance Audit included in the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended March 2001 had not been received from the Finance Department as of November 2014. The review of the outstanding action taken notes (ATNs) as of 31 March 2014 on paragraphs included in the Report of the Comptroller and Auditor General of India, Revenue Receipts, Government of Tamil Nadu indicated that the Departments had not submitted ATNs for 1,239

recommendations pertaining to audit paragraphs discussed by PAC. Out of the pending 1,239 recommendations, even the first ATN had not been received in respect of 753 recommendations, the earliest of which relates to the Audit Report for the year 1986-87.

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 IRs / 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 Commercial Taxes Department under revenue head '0040' and cases detected in the course of local audit during the last 10 years and also the cases included in the Audit Reports for the years 2003-04 to 2012-13.

1.7.1 Position of Inspection Reports

The summarised position of the IRs issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2014 are tabulated in **Table 1.7.1**.

Table: 1.7.1

Position of Inspection Reports

(₹ in crore)

Year	Opening balance			Additions during the year			Clearance during the year			Closing balance		
	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value
2004-05	3685	7205	804.02	222	2462	140.36	130	753	90.70	3777	8914	853.68
2005-06	3777	8914	853.68	226	2334	117.72	120	645	44.92	3883	10603	926.48
2006-07	3883	10603	926.48	293	4124	121.54	194	1652	6.71	3983	13075	1041.31
2007-08	3983	13075	1041.31	249	3106	297.69	452	2393	152.06	3780	13788	1186.94
2008-09	3780	13788	1186.94	254	2225	167.87	425	1999	85.33	3609	14014	1269.48
2009-10	3609	14014	1269.48	243	1950	220.53	271	1968	37.25	3581	13997	1452.76
2010-11	3581	13997	1452.76	223	1931	181.25	101	1655	158.95	3703	14273	1475.07
2011-12	3703	14273	1475.07	197	1873	236.57	134	1510	183.50	3766	14636	1528.14
2012-13	3766	14636	1528.14	152	2388	193.23	628	3217	399.76	3290	13807	1321.61
2013-14	3290	13807	1321.61	204	3256	217.68	68	1005	159.55	3426	16058	1379.74

The Government arranges Audit Committee meetings between the Department and AG's office to settle the old paragraphs. As would be evident from the above table, as against 7,205 paragraphs which were pending at the beginning of 2004-05, the number at the end of 2013-14 had increased to 16,058.

1.7.2 Recovery of accepted cases

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

Table: 1.7.2

(₹ in crore)

Year of Audit Report	No. of paras included in the Audit Report	Money value of the paragraphs	No. of paras accepted	Accepted money value	Recovery made	Cumulative position of recovery of accepted cases as of 31.3.2014
2003-04	8	37.71	4	1.16	0.01	0.13
2004-05	9	45.12	7	5.02	0.01	0.80
2005-06	10	28.49	9	26.7	0.02	0.34
2006-07	10	64.54	6	31.33	0.11	0.80
2007-08	14	50.77	6	37.51	0.01	1.51
2008-09	12	72.52	5	3.12	0.02	1.09
2009-10	13	134.99	10	7.94	0.07	5.76
2010-11	13	21.45	3	6.78	0.03	0.45
2011-12	7	427.54	4	37.09	0.02	4.60
2012-13	7	149.74	4	4.09	0.91	0.91

It is evident from the above table that the progress of recovery even in accepted cases was very slow throughout during the last ten years. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties.

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

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

The following Performance Audits on the Department of Commercial Tax featured in the last five years' Audit Reports. The details of recommendations and their status is given in **Table 1.7.3.**

Table: 1.7.3

Year of report	Name of PA	No. of recommendations	Details of recommendations accepted	Status
2008-09	Transition from Sales Tax to Value Added Tax	Seven	Formulating an effective action plan to facilitate and monitor the finalisation of assessments at the earliest	The Government amended the TNVAT Act with effect from 19 June 2012 introducing the deemed assessment provisions fixing time limit. Department had selected cases for detailed scrutiny for the year 2006-07 to 2009-10 and fixed time limit for completion of scrutiny of such cases at the latest by 31 March 2015.
	Assessment and levy of entertainments tax	Five	Enlarging the scope of the definition "entertainment" for the levy of tax under the TNET Act.	The Government amended the Tamil Nadu Entertainments Tax Act, 1939 and brought cricket tournaments conducted by Indian Premier League (IPL) and Direct to Home (DTH) services under the tax net.
2009-10	Computerisation of check posts in Commercial Taxes department (IT review)	Five*	--	--
2010-11	Utilisation of declaration forms in inter-State trade	Four	Introducing a system of issuing online declaration form which would facilitate updation of details without delay in the TINXSYS website.	The Government introduced online issue of declaration forms with effect from October 2012.
			The lapses noticed in check post records in capturing the movement of petroleum products in large quantity from Tamil Nadu to Puducherry and the possibility of the goods having been sold within Tamil Nadu by camouflaging the local sale as inter State sale to take advantage of the huge difference in the rate of tax existing in these two States.	The Government amended Section 70 and sixth schedule to the TNVAT Act, 2006 and extended the transit pass system to petrol and diesel oil to curb the menace of mid-dropping of petroleum products.

* Response of the Department has not been received.

2011-12	Implementation of Value Added Tax in Tamil Nadu	Ten	Introducing suitable provisions in the TNVAT Act/Rules for fixing a time limit for completing the detailed scrutiny.	Department had selected cases for detailed scrutiny for the year 2006-07 to 2009-10 and fixed time limit for completion of scrutiny of such cases at the latest by 31 March 2015.
			Introduction of suitable provisions in the VAT Act for restriction of ITC while effecting inter-State sale of goods out of locally purchased goods.	Section 19(2) of the TNVAT Act has been amended incorporating a proviso allowing the ITC only in excess of three <i>per cent</i> for inter-State sale against C form.
			Providing a column in the bill of entry form for indicating the TIN of the importing dealers, in consultation with the Central Government, which could enable the Department to easily identify the importers.	The Government accepted the recommendations and has taken up the matter with the Government of India in this regard.

1.8 Audit planning

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

During the year 2013-14, the audit universe comprised 1,241 auditable units, of which 425 units were planned and 457 units were audited during the year 2013-14 i.e., 37 *per cent* of the total auditable units. The details are shown in Annexure-I.

1.9 Results of audit

Position of local audit conducted during the year

The records of 457 units of commercial taxes, state excise, motor vehicles tax, stamp duty and registration fees, electricity tax and mines and minerals were test checked during 2013-14 and underassessments, short levy, loss of revenue and other observations amounting to ₹ 1,088.74 crore were noticed in 3,230 cases. During the year, the Departments accepted under assessments and other deficiencies in 680 cases involving ₹ 7.20 crore. Out of this, 75 cases involving ₹ 2.42 crore were pointed out in 2013-14 and 605 cases involving ₹ 4.78 crore pertain to objections raised in earlier years. The Departments collected ₹ 4.97 crore during 2013-14.

1.10 Coverage of this Report

This Report contains 20 paragraphs including one Performance Audit relating to non/short levy of taxes, duties, interest and penalties and other audit observations involving financial effect of ₹ 825.02 crore. The Departments/Government accepted audit observations involving ₹ 20.62 crore; of which, ₹ 2.36 crore had been recovered/adjusted by the Departments. Reply in respect of remaining cases has not been received (November 2014). These are discussed in succeeding Chapters II to IV.

CHAPTER II

SALES TAX/VALUE ADDED TAX

CHAPTER II

SALES TAX / VALUE ADDED TAX

2.1 Tax administration

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

2.2 Internal Audit

The Internal Audit wing is organised in each Zone and consists of an Assistant Commissioner, Commercial Tax Officer and four supporting staff. The assessments finalised and the refunds made in the preceding quarter were to be taken up for audit in the succeeding quarter.

The Department stated that no annual action plan was contemplated for the conduct of internal audit due to vacancy in staff strength and since the advent of VAT regime, only special audits were being conducted in respect of assessments finalised by assessing officers who were due for retirement. The Department, however, did not provide details of sanctioned staff strength, vacancy position and the number of internal audit parties which were operated.

The Department further stated that the details of objections raised by internal audit, outstanding inspection reports, and year-wise break-up of outstanding inspection reports were not available. This indicates that due importance had not been accorded to internal audit by the Department.

The Government may consider strengthening internal audit.

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

2.4.1 Introduction

The Commercial Taxes Department (CTD) of the State of Tamil Nadu administers various taxes, the major being the Value Added Tax (VAT), which was introduced in Tamil Nadu with effect from 1 January 2007 after repealing the erstwhile Tamil Nadu General Sales Tax Act, 1959. These taxes contribute nearly 63 *per cent* to the total revenue of the State, of which the receipts under Tamil Nadu Value Added Tax Act (TNVAT Act) alone constitute nearly 83 *per cent* of the total receipts from commercial taxes. The VAT system is a destination/consumption based tax system and has provisions for set off of tax paid on the previous purchases.

The Commissioner of Commercial Taxes (CCT) is the head of the CTD. The Department comprises three wings *viz.* Assessment, Enforcement and Appellate wings. The primary function of the Enforcement Wing (EW) is to control tax evasion. The part played by EW in curbing tax evasion assumes considerable importance in the VAT scenario, owing to its intrinsic character of placing reliance on self-assessment by the dealers.

The EW fulfills its function through the following major activities:

- Conduct of VAT audits/surprise inspections of place of business of dealers.
- Checking of movement of goods through check posts³, check points⁴ and roving squads⁵.
- Co-ordination with other departments to procure information for verification of transactions.
- Verification of genuineness of inter-State transactions through Inter-State Investigation Cell (ISIC).

While the check posts and check points are static, roving squads are mobile. The Inter-State Investigation Cell (ISIC) co-ordinates with other States to control evasion of tax on inter-State transactions and also exchanges data with them for further processing to arrest tax evasion.

2.4.2 Organisational set-up of Enforcement Wing

The overall monitoring and control of the EW lies with the CCT, who is assisted by Joint Commissioner (JC) (ISIC), Joint Commissioners (JC) (Enforcement) at the divisional⁶ level, and Deputy Commissioners (DC) (Enforcement) at the zonal⁷ level. Besides, there are four Central Enforcement

³ 29 check posts are established along the State borders to monitor inter-State movement of goods.

⁴ Eight check points are established in places where import/inter-State movement of goods is involved.

⁵ 55 roving squads undertake vehicular checking of goods transported through roads.

⁶ Eight Divisions namely, Chennai-I, Chennai-II, Coimbatore, Madurai, Salem, Tirunelveli, Trichy and Vellore.

⁷ Ten District zones namely Chennai (Central), Chennai (South), Chennai (North), Chennai (East), Coimbatore, Madurai, Salem, Tirunelveli, Trichy and Vellore.

Wings (CEW), each under the direct control of JC (Enforcement), Chennai-I, Chennai-II, Madurai and Coimbatore respectively. The monitoring and control at the Government level is done by the Principal Secretary, Commercial Taxes and Registration Department.

2.4.3 Audit objectives

The Performance Audit was conducted with a view to ascertain whether-

- enforcement activities were undertaken in compliance with the provisions of the Acts and Rules made there under and notifications and circulars issued from time to time;
- the functioning of check posts, roving squads and ISIC was efficient and effective in identifying and preventing evasion of tax;
- enforcement wing adopted a technology based enforcement system and whether the same was adequate and effective; and,
- the resources, including human resource were adequate for the effective functioning of EW.

2.4.4 Audit Criteria

The audit objectives are benchmarked against the criteria drawn from the following sources:

- Tamil Nadu Value Added Tax Act, 2006;
- Tamil Nadu Value Added Tax Rules, 2007;
- Tamil Nadu Value Added Tax Audit Manual;
- Instructions issued by the CCT from time to time.

2.4.5 Scope and methodology

The Performance Audit intended to cover the activities of EW during the period from 2008-09 to 2012-13. Out of the eight enforcement divisions in the State, four divisions namely, Chennai-I, Chennai-II, Coimbatore and Tirunelveli were taken up for audit based on the revenue unearthed in VAT audits / surprise inspections by EW.

Simple random sampling without replacement was used to select the check posts, check points and roving squads. Fourteen out of 29 check posts, three out of eight check points and 12 out of 55 roving squads, were selected for the purpose of audit. Audit evaluated the co-ordination of CTD with departments of Customs, Railways and TANGEDCO in obtaining data from them and making use of the same in detecting suppression and evasion of tax. The records of ISIC were also scrutinised.

Entry Conference was held with the Principal Secretary to the Government, CTD and CCT in March 2014, during which the objectives, scope and methodology of audit were discussed and Performance Audit report was discussed with the Principal Secretary, CTD in the Exit Conference held in November 2014. The views expressed by the Government during the Exit

Conference have been appropriately incorporated in the relevant paragraphs of this Report.

2.4.6 Acknowledgment

Indian Audit and Accounts Department acknowledges the co-operation extended by the CTD in providing necessary information and records to Audit.

Audit findings

The audit findings have been categorised on the basis of four major activities of EW.

2.4.7 VAT audit and surprise inspection

The provisions relating to VAT audit and surprise inspection are contained in Sections 64 and 65 of the TNVAT Act. Section 64(4) of the TNVAT Act provides that the CCT may order audit of the business of any registered dealer. This has been incorporated so as to enable the taxing authorities to satisfy themselves about the correctness of the returns filed by the dealers. Audit under Section 64(4) shall be made after prior intimation to the dealer.

Section 65 of the TNVAT Act empowers the officers of the CTD to enter business premises at all reasonable times to inspect accounts, registers, records and any other documents relating to the business of the dealer. The Section also enjoins upon the officer the power to seize accounts, registers, records and other documents of the dealer, if the officer has reason to believe that the dealer is attempting to evade payment of tax.

The objective of VAT audit is to check the statutory compliance by the dealer and whether the correct amount of tax is paid by the dealer. The overall objective of VAT audit is to gather and evaluate audit evidence of sufficient quantity and appropriate quality in order to form audit opinion on the reliability of the assertions of dealer.

System in existence

Selection of cases for VAT audit is done by the CCT, while the approval for surprise inspections is given both by the CCT and JC (Enforcement) of a division. Then, audit groups in the EW conduct the VAT audits and surprise inspections, the findings of which are delivered through VAT audit notes and surprise inspection proposals. These notes and proposals are then forwarded to the Assessment circles (Territorial Wing) for implementation. The monitoring of implementation of the notes and proposals has been entrusted with the DC (Territorial), who reports to JC (Territorial), who in turn reports to the CCT.

2.4.7.1 Trend of revenue (VAT audits and Surprise inspections)

The number of VAT audits and surprise inspections conducted for the State during the period from 2009-10 to 2012-13, the revenue detected therefrom and the revenue from VAT/Sales tax for the corresponding period is given in the table below:

Table: 2.2

(₹ in crore)

Year	Number of assesseees	VAT audits conducted	Surprise inspections conducted	Total number of VAT audits /surprise inspections	Revenue detected during VAT audits/ surprise inspections	VAT/Sales tax revenue of the State	Percentage of detected revenue to VAT/Sales tax revenue
1	2	3	4	5	6	7	8
2008-09	2,45,052	0	0	0	0	20,674.70	-
2009-10	2,70,158	7,029	0	7,029	1,780.91	22,661.52	7.86
2010-11	3,11,517	1,903	1,659	3,562	8,137.14	28,614.23	28.44
2011-12	3,63,462	278	892	1,170	8,630.82	36,288.90	23.78
2012-13	4,05,721	87	1,517	1,605	4,018.76	44,041.13	9.12

(Source: Departmental Publication 'CTD at a Glance' and Finance Accounts of the State)

The table indicates that the total number of VAT audits and surprise inspections conducted in a year is a very small proportion to the total number of assesseees in the year, the proportion ranging between 0.32 *per cent* and 2.6 *per cent* during the period from 2009-10 to 2012-13. The table also exhibits a decrease in conduct of VAT audits during the period from 2009-10 to 2012-13, the number being 87 during 2012-13 as against 7,029 audits conducted during 2009-10.

Audit called for (June 2014) the reasons of drastic reduction in the number of VAT audits undertaken during the year 2012-13 as compared to the earlier years. The Department did not attribute any specific reason for the decreasing trend in conduct of VAT audit.

During Exit Conference, the Government stated that a conscious decision was taken to reduce the quantitative number of VAT audits/surprise inspections to improve the quality. The Government also attributed the decrease in conduct of VAT audit/surprise inspection to shortage of man power.

2.4.7.2 Effectiveness of VAT audit / surprise inspection

The overall effectiveness of functioning of VAT audit / surprise inspection can be evaluated by monitoring the actual amount of revenue collection after the implementation of the VAT audit notes / surprise inspection proposals. However, such information was not available either in the 'Statistics at a glance' compiled by CTD or in the monthly returns submitted to CCT. Hence, Audit could not ascertain the actual amount of revenue realised on account of implementation of the VAT audit notes / surprise inspection proposals. However, audit scrutinised a sample of progress reports and found revenue neutralisation due to production of declaration forms as mentioned below:

Audit test checked 41 VAT audit notes and 58 surprise inspection proposals pertaining to 2010-11 and 2011-12 evolved by the two Chennai divisions. Out of revenue of ₹ 6,988.64 crore involved in the above notes and proposals, ₹ 2,246.45 crore related to non-submission of declaration forms. Further, audit

observed revenue neutralisation of ₹ 425.64 crore (out of demand of ₹ 498.79 crore) in 22 VAT audit notes and 46 surprise inspection proposals due to subsequent filing of declaration forms by the dealers.

2.4.7.3 Selection of cases for VAT audit

Section 64(4) of the TNVAT Act states that the selection of cases for VAT audit shall be made from amongst dealers (i) who have not filed returns within the prescribed period; or (ii) who have claimed exorbitant amount of refund of tax; or (iii) who, in the opinion of CCT, have filed incorrect return; or (iv) on the basis of any other criteria or on a random sampling basis by the CCT; or (v) where detailed scrutiny of the case is necessary in the opinion of the CCT.

The VAT Audit Manual also envisages a risk related system, including parameters such as non-filing of returns, newly registered tax payer, claim of huge input tax credit (ITC)/refund/exemption, business type, importing dealer, etc. Though the Act and the Manual envisions a risk based approach to selection of dealers for conducting VAT audits / surprise inspections, it does not prescribe any specific targets regarding coverage of the risky dealers.

Audit undertook the exercise of evaluating the process of selection of cases for the purpose of conducting VAT audit/surprise inspection by applying three of the criteria mentioned in the VAT Audit Manual viz., claim of huge ITC, newly registered dealers and importing dealers. The evaluation was restricted to the years 2010-11 and 2011-12 as the list of cases selected for VAT audit during the year 2009-10 was not furnished by EW. The findings of the exercise are as follows:

Huge ITC claim

Analysis of data received from CTD revealed that 1,702 dealers of Chennai region purchased goods valued at ₹ 1,411.94 crore during 2010-11 and 2011-12 from 786 dealers whose RCs were cancelled and claimed ITC of ₹ 81.64 crore. Audit scrutiny revealed that VAT audit was conducted during 2010-11 to 2012-13 only in respect of 147 out of 1,702 dealers, constituting 8.4 *per cent* of the ineligible claimants of ITC, amounting to ₹ 8.40 crore.

Importing dealers

As per records of Customs Department, 10,680⁸ dealers imported goods during the year 2011-12. Audit scrutiny, however, indicated that only 330⁹ importers were selected for VAT audits/surprise inspections during the years 2011-12 and 2012-13, which represented 3.08 *per cent* of the total importing dealers.

Audit also observed that out of the total importing dealers, RCs of 568 dealers were cancelled during 2011-12 and 2012-13 and VAT audits/surprise inspections were conducted only in respect of 11 importing dealers.

⁸ 7,370 in Chennai, 2,272 in Coimbatore and 1,038 in Tirunelveli

⁹ 233 from Chennai, 74 from Coimbatore and 23 from Tirunelveli

Newly registered dealers

Analysis of data obtained from CTD indicated that in four¹⁰ divisions, 74,916 dealers were newly registered during 2010-11 and 2011-12. Audit, however, observed that only 134 of such dealers were selected for VAT audit/surprise inspection during the years 2010-11 to 2012-13, representing less than one *per cent* of the newly registered dealers.

Audit further noticed that out of the newly registered dealers, the RCs of 8,070 dealers were cancelled during the period from February 2010 to November 2011 and VAT audit/surprise inspection was conducted in respect of only 20 of these RC cancelled dealers.

Thus, the above exercise revealed that adequate number of risk category dealers were not considered for VAT audit/surprise inspection. The possibility of loss of revenue to Government could not be ruled out as benefits of ITC and output tax liability were extended to dealers despite cancellation of RCs.

During Exit Conference, the Government accepted the audit observation and stated that since e-filing of monthly returns was mandated with effect from December 2010 and it took a year to persuade the dealers to switch over to e-filing of returns, digital data was available only from December 2011 and hence, the process of data analysis to apply any risk criteria was not possible until 2012.

2.4.7.4 Non-conduct of VAT audit

Para 5.3.1 of VAT Audit Manual states that where audit of a dealer is ordered, the Joint / Deputy Commissioner (Enforcement) shall depute audit officers by way of authorisation in Form VA – 05.

Scrutiny of data relating to selection of cases for VAT audit/surprise inspection made by the CCT with the list of VAT audit/surprise inspection conducted by EW and the Progress Reports of the DC (Territorial) revealed that though the CCT had selected 375 cases for VAT audit and 166 cases for surprise inspections, VAT audit of 106 dealers and surprise inspection in respect of 32 dealers were not conducted. Further scrutiny of records revealed that out of the 138 dealers, 92 were selected for VAT audit and three for surprise inspection as early as during 2009-10 and 2010-11.

The RCs of 36 dealers were cancelled; of which, RCs of 30 dealers were cancelled after selection but before conduct of VAT audits and the correctness of claim of ITC and output tax liabilities was, therefore, not verified. Further, RCs of six dealers were cancelled before selection, indicating lack of co-ordination between EW and the Assessment wing.

After Audit pointed this out (September 2014), the JC (Enforcement) Tirunelveli replied that since the RCs of 17 dealers were cancelled, VAT audit was not conducted. It was further stated that the reason for non-conduct of VAT audit in respect of the remaining six cases would be intimated in due course. However, the RCs of 15 dealers were cancelled after selection of cases for VAT by the CCT.

¹⁰

Chennai-I, Chennai-II, Coimbatore and Tirunelveli

This indicates lack of monitoring system to ensure that VAT audits were conducted in respect of all cases which were selected by CCT.

During Exit Conference, the Government stated that efforts were being made to arrange for a co-ordination meeting to improve monitoring of the conduct of VAT audit/surprise inspection. The Department also stated that lack of monitoring was due to the absence of an online workflow system which could provide information in a centralised manner and this aspect had been addressed in their current project, viz., Total Solution Program (TSP), which would become operational from the year 2015.

2.4.7.5 Delay in communication of VAT audit notes

The CCT issued instructions in June 2010 that, with respect to VAT audit notes, the proposals containing the findings of EW should be forwarded within one month from the date of completion of audit.

Despite CCT's instructions, audit scrutiny of records, pertaining to two divisions of Chennai and one of Coimbatore, during the period from 2010-11 to 2012-13, revealed that 298 VAT audit notes involving revenue of ₹ 3,137 crore were communicated by the EW to assessment circles beyond a period of one month as indicated in table below:

Table:2.3

(₹ in crore)			
Sl.No.	Time taken for communication	Number of audit notes	Revenue involved
1	1 month	117	30.66
2	2 months to 3 months	138	862.86
3	3 months to 6 months	57	1,093.25
4	6 months to 1 year	37	504.62
5	More than 1 year	66	676.52
Total		415	3,167.91

The above table indicates that 66 VAT audit notes involving revenue of ₹ 676.52 crore were communicated to the assessment circles one year after the dates of audit. Of these, seven VAT audit notes involving revenue of ₹ 1.38 crore were communicated after a delay of two years.

2.4.7.6 Delay in communication of surprise inspection proposals

Audit also observed delay in communication of 552 surprise inspection proposals formulated by two divisions of Chennai, one each of Coimbatore and Tirunelveli during the period from 2010-11 to 2012-13, involving revenue of ₹ 881.27 crore, as mentioned in the following table.

Table:2.4

(₹ in crore)			
Sl.No.	Period ranging from	Number of audit notes	Revenue involved
1	3 months to 6 months	274	230.54
2	6 months to 1 year	127	315.52
3	More than 1 year	161	335.21
Total		562	881.27

The above table indicates that 161 surprise inspection proposals involving revenue of ₹ 335.21 crore were communicated to the assessment circles one year after the dates of inspection. Of these, 22 surprise inspection proposals, involving revenue of ₹ 14.02 crore, were communicated after a delay of two years.

During Exit Conference, the Government accepted the audit observation and attributed the reasons of lack of information system and absence of co-ordination between the EW and the assessment wing for the delay in communication of VAT audit notes/surprise inspection proposals.

Implication of delay in communication

The implementation of VAT audit notes/surprise inspection proposals by the assessment circles gets postponed due to delay in communicating the same by EW. This, in turn, adversely hampers the realisation of revenue as recovery of the additional demand becomes a remote possibility with efflux of time. Few illustrative cases are mentioned in the following paragraphs.

- The proposal, involving tax and penalty of ₹ 4.08 crore relating to suppression of imports of PVC laminated sheets, was communicated to the assessment circle only in February 2012 though surprise inspection was conducted in November 2010. Though the assessment was revised in October 2012, the revision order could be served only by affixture at the registered place of business as the dealer had already vacated his place of business. The amount of ₹ 4.08 crore, therefore, remains uncollected.
- Surprise inspection proposal, involving revenue of ₹ 1.77 crore due to the failure of the dealer to report imports, was received in the assessment circle in February 2014 though inspection was conducted during November 2012 for implementation. However, the dealer stopped his business and surrendered his RC to the AA in January 2013, which was also accepted. Though the proposal was implemented by the AA in July 2014, the amount remains uncollected.
- Surprise inspection proposal, involving revenue of ₹ 70.40 lakh in respect of inspection conducted in April 2012, was forwarded to the assessment circle in May 2013. Audit, however, noticed from intranet of the Department that the dealer had closed his business and his RC was cancelled by the AA in May 2012, viz., after conduct of surprise inspection but before receipt of the proposal in the assessment circle.
- Surprise inspection of a dealer of Godown assessment circle was conducted in June 2011 and the proposal involving revenue of ₹ 39.60 lakh

was communicated to the assessment circle in June 2013. The RC of the dealer was, however, cancelled by the AA on a request from the dealer in June 2011.

- Scrutiny of Progress Reports indicated that 23 VAT audit notes and 61 surprise inspection proposals, involving revenue of ₹ 35.81 crore and ₹ 19.13 crore respectively, were either not received in assessment circles or were received belatedly. The details furnished by EW, however, did not indicate any delay in communication. In one case, Audit noticed that a VAT audit note, involving revenue of ₹ 10.59 crore relating to a dealer of LTU-III assessment circle, was forwarded by EW to the assessment circle during January 2012. However, the same was received by the assessment circle after two years. Similarly, delays were noticed in communication of VAT audit notes/surprise inspection proposals to the assessment circles.

This indicated absence of system to ensure that all VAT audit notes/surprise inspection proposals were forwarded to the assessment circles. The non-adherence to the instructions and directions of the higher authorities and non-monitoring of their compliance by the higher authorities concerned indicated weak internal control mechanism.

2.4.7.7 Deficiencies in VAT audit notes/surprise inspection proposals formulated by EW

The EW, while conducting surprise inspections and VAT audits, has access to the business records of the dealers. This affords an opportunity to the EW to analyse them in order to find out omissions, inaccuracies in the returns filed by the dealer and to unearth suppression of purchase/sales. Audit, however, noticed the following discrepancies during scrutiny of the VAT audit notes/surprise inspection proposals formulated by the Enforcement divisions of Chennai and Coimbatore.

Inadmissible compounded rate of tax

Section 6 of the TNVAT Act provides that such dealers other than those who purchase goods from outside the State or who import goods from outside the country, may pay tax at the rate of two *per cent* on the total value of civil or maintenance works executed by him, or at the rate of four *per cent* in respect of other works. Accordingly, the dealers who effect purchases from inter-State are not eligible for the compounded rate of tax.

Two civil works contractors of Adyar-II and Trichy Road assessment circles paid tax at the compounded rate of two *per cent* on the total value of works contract amounting to ₹ 20.73 crore during the years 2007-08 to 2009-10, even though they effected inter-State purchase of goods. The inspecting officers of CEW-II, Chennai and Coimbatore failed to point out the mistake and consequential short-payment of tax of ₹ 1.23 crore in the proposals formulated by them in respect of two inspections conducted during March 2012 and July 2012.

Incorrect computation of taxable turnover

As per Section 27 of the TNVAT Act, if any part of the turnover of a dealer has escaped assessment to tax, the AA may determine to the best of his judgment, the turnover which has escaped assessment and assess the tax on such turnover.

- The EW, during surprise inspection (June 2012) verified the books of accounts of a dealer pertaining to Godown assessment circle and detected under-reporting of sales turnover by the dealer in the monthly returns for the years 2010-11 and 2011-12. Audit, however, noticed that even though there was under-reporting of sales turnover during 2008-09 and 2009-10, EW failed to point out the suppression involving tax of ₹ 14.31 lakh.
- The EW, during surprise inspection (December 2012) on the premises of a dealer of Palladam assessment circle detected non-inclusion of transport charges and pumping charges to the sale value of the ready mix concrete reported by the dealer for the years 2011-12 and 2012-13. Audit, however, noticed that while considering the above charges as pre-sale expenses for computing the sales turnover, the EW incorrectly allowed deduction of 25 per cent of such charges, which was not in order. Tax involved was ₹ 5.60 lakh.
- Audit noticed that in respect of a dealer pertaining to Amaindakarai assessment circle, the EW while conducting surprise inspection (December 2012) incorrectly computed the purchase suppression for the year 2006-07 as ₹ 2.32 lakh instead of the correct value of ₹ 23.20 lakh, which resulted in short computation of turnover of ₹ 20.88 lakh and consequential tax of ₹ 2.61 lakh.
- The EW, while conducting surprise inspection (February 2013), found that a dealer engaged in supply of food and drinks failed to get himself registered under the TNVAT Act. Based on the Income Tax returns filed by the caterer, the EW unearthed non-disclosure of taxable turnover of ₹ 15.24 lakh by the dealer for the years 2011-12 and 2012-13. The EW, however, failed to notice such non-disclosure of sales turnover of ₹ 4.31 crore, involving tax of ₹ 8.62 lakh in respect of 2009-10 and 2010-11, though the details were available in the inspection file.

Incorrect claim of ITC

During test check of inspection records of DC (North and South) and JC, Coimbatore divisions, Audit noticed that three dealers pertaining to three assessment circles¹¹ purchased goods valued at ₹ 6.78 crore during the years 2008-09 and 2009-10 from the dealers whose RCs were already cancelled during different periods between April 2007 and June 2008 and claimed ITC of ₹ 37.99 lakh. The EW, while conducting surprise inspection (between May 2010 and June 2012) in the premises of the dealers, failed to point out the

¹¹ Guindy, Harbour-III and Podanur

incorrect claim of ITC and to suggest a minimum penalty of ₹ 18.99 lakh under Section 27 of TNVAT Act.

Non/short-reversal of ITC

- As per Section 19(5)(a) of TNVAT Act, ITC is not available in respect of sale of goods exempt from levy of tax. Sale of goods to Special Economic Zone (SEZ) located in other States is exempt as per Section 8(6) of the Central Sales Tax Act, 1956 (CST Act).

An assessee of Sowcarpet-II assessment circle effected exempted sales of ₹ 9.51 crore to the SEZ units located in other States during the year 2010-11 and 2011-12; but failed to reverse the corresponding ITC already availed. The EW, which conducted surprise inspection (November 2012), failed to point out this omission in their inspection report, which led to non-reversal of ₹ 2.42 lakh.

- As per Section 19 (4) of the TNVAT Act, ITC in excess of three *per cent* is available when the goods purchased locally are either transferred to a place outside the State as such or used in the manufacture of other goods and such manufactured goods are transferred to a place outside the State otherwise than by way of sale.

The EW, which conducted surprise inspection (September 2012) on the premises of an assessee of Thiruvannamiyur assessment circle, suggested reversal of ITC on account of stock transfer of goods effected by the dealer but incorrectly computed the amount of ITC as ₹ 0.54 lakh instead of ₹ 7.54 lakh in the proposal, which resulted in short-computation of ₹ 7 lakh.

Application of incorrect rate of tax

As per entry 18 of Part C of the First Schedule to the TNVAT Act, sale of iron grills was taxable at the rate of 12.5 *per cent* upto 11 July 2011.

The CEW-I conducted inspection in May 2010 and proposed levy of tax on the deemed sale value of materials used in the works contracts executed by the dealer pertaining to Purasawakkam assessment circle for the period 2006-07 to 2010-11. In the proposal, tax was incorrectly suggested at four *per cent* instead of at the correct rate of 12.5 *per cent* on the deemed sale value of iron grills. This resulted in short-computation of tax of ₹ 2.61 lakh and penalty of ₹ 3.92 lakh.

2.4.8 Cross verification of movement of goods through check posts and roving squads

Section 67 of TNVAT Act empowers the Government to set up check posts at notified places in the State with a view to prevent or check evasion of tax. The officers in-charge of check posts are empowered to examine the contents of the vehicle stopped at the check posts and inspect the documents in possession of the driver or other person in-charge of the goods vehicle for the purpose of ascertaining whether there had been any sale or purchase of the goods carried and whether the sale or purchase of the goods carried had, for the purpose of the payment of tax under the Act, been properly accounted for and supported by relevant documents, viz. bills of sale or delivery notes in Form JJ.

As per section 67(3), if it appears on examination of the documents that the tax payable has not been paid or if the goods transported are not covered by proper documents, the officer may detain the goods vehicle until the tax is paid or adequate security for such liability is furnished. The check posts, which function round the clock, are under the control of Assistant Commissioners / Deputy Commercial Tax Officer.

The revenue realised by way of advance tax and compounding fee at the check posts during the years 2008-09 to 2012-13 is given in the table below:

Table: 2.5

(₹ in crore)

Year	Number of vehicles checked	Number of vehicles for which offences were booked	Collections by way of tax	Collections by way of compounding fee	Total revenue collected in check posts
2008-09	27,61,317	7,859	1.50	1.67	3.17
2009-10	27,15,710	6,857	2.05	1.70	3.75
2010-11	29,67,387	11,334	9.34	5.51	14.85
2011-12	30,15,374	12,328	21.94	8.64	30.58
2012-13	27,85,510	12,997	23.41	12.20	35.61
Total	1,42,45,298	51,375	58.24	29.72	87.96

(Source: Statistics at a glance compiled by CTD)

The table indicates that though there is a steady increase in revenue realised in the check posts during the period from 2008-09 to 2012-13, the number of vehicles checked during 2009-10 and 2012-13 had decreased as compared to previous years of 2008-09 and 2011-12 respectively.

2.4.8.1 Capturing of data in the System

The inter-State movement of goods is monitored through 29 border check posts in the State (11 major and 18 minor check posts). As part of computerisation, the CTD implemented the “Commodity Movement Monitoring Module” (C3M) in all the check posts in December 2007 for capturing the details of vehicles moving through the check posts. Performance Audit on Computerisation of check posts in CTD was included in the Audit Report of the Comptroller and Auditor General of India for the year ended March 2010, wherein the working of check posts in respect of the period from 2007-08 to 2009-10 was analysed. Accordingly, the performance of check posts for the period from 2010-11 to 2012-13 has been analysed in this Performance Audit.

A comparison of the details of number of vehicles that moved through the check posts, the number of offences booked and the collection of compounding fees, as reported in the CTD’s annual compilation of “Statistics at a glance” with corresponding details captured in the C3M software for the years from 2010-11 to 2012-13, revealed that percentage of data captured in the system of the number of vehicles checked ranged between 22 and 36 *per cent*, the

number of offences booked ranged between three and eight *per cent* and amount of compounding fees collected during the last three years ranged between two and four *per cent*. As capturing of data in the system was not complete, the intranet of Department which generates various MIS reports could not be of effective use. This indicates that objective of development and implementation of C3M had not been achieved.

According to Section 70(1) of the TNVAT Act, the person in charge of a goods vehicle, carrying any goods mentioned in the Sixth Schedule of the Act from one State to another State through this State, shall obtain a transit pass prescribed in Form-LL from the check post officer in charge of the entry check post and shall surrender one copy of the transit pass to the officer in-charge of the last check post before leaving the state.

The computerised system has provisions to capture only the details of transit passes manually issued and uploading of the same in the entry check posts. No provision has been made in the software to alert the exit check post regarding the date and time of surrender of transit passes issued manually. As a result, deficiency in monitoring of the surrender of passes through the System was noticed. Further, the data capturing was also not cent *per cent* in all the check posts.

- Audit noticed from the records in five¹² out of 14 selected check posts that 63,181 manual transit passes were issued during the period from 2010-11 to 2012-13. Out of this, details of 2,177 passes alone were captured in the system.

During Exit Conference, the Government attributed the reason of inadequate man power in the check posts for incomplete data entry.

Though shortage of man power was cited as a reason, Audit noticed that the check posts were computerised as early as in December 2003 but the Department had not discarded the practice of manual recording of details in the registers and had been following the same along with the work of secondary data capture in the software.

2.4.8.2 Non-utilisation of the available information

As per Section 67 of the TNVAT Act, the officers in-charge of the check posts should ensure whether there has been any sale or purchase of the goods carried and if so, whether tax has been paid on such sale and the transaction had been properly accounted for in the documents accompanying the goods, by effectively utilising the information available in the intranet of the CTD regarding status of registration, status of filing of returns, etc. of the dealers.

A cross verification of the details of Tax Payers' Identification Number (TIN) available in the System in C3M with the database of dealers in intranet for the period from 2010-11 to 2012-13 indicated that goods valued at ₹ 5.04 crore were transported out of the State by 116 dealers and goods valued at ₹ 11.71 crore were transported into the State by 203 dealers through 24 check posts. Audit, however, noticed that the registration of these dealers under the TNVAT

¹² Hosur (Incoming), Kandamangalam, Pattanur, Pennaiyur Bridge and Thoppur (Incoming)

Act had been cancelled prior to the date of movement of the goods at the check posts.

Audit scrutiny of the records in six¹³ out of the above 24 check posts revealed that 34 dealers had transported through one check post, taxable goods valued at ₹ 6.72 crore out of the State and 62 dealers transported through five check posts, taxable goods valued at ₹ 1.54 crore into the State during the period from 2010-11 to 2012-13 even though registration of these dealers under the TNVAT Act were cancelled prior to the date of movement of goods at the respective check posts. However, audit scrutiny of the offence registers maintained in the check posts revealed that the officers-in charge of the check posts failed to detect movement of goods by unregistered dealers and initiate action for levy of tax of ₹ 51.21 lakh.

The Department attributed (December 2014) the shortcomings in verification to the absence of upto-date database of the status of registration of dealers and status of filing of returns in intranet of the Department and this issue had been addressed in the forthcoming TSP. However, the lack of verification had resulted in non-levy of tax of ₹ 51.21 lakh.

2.4.8.3 Non-levy of tax and penalty despite non-surrender of transit passes

Section 70 of the Act provides that the owner or person in-charge of a goods vehicle carrying goods mentioned in the Sixth Schedule, from any place outside the State and bound for any other place outside the State shall obtain a transit pass (TP) from the check post officer of the first check post after entry into the State and deliver the same to the check post officer of the last check post before exit out of the State. In case of failure to surrender the TP, the Act provides that the goods carried shall be deemed to have been sold within the State and the owner or person in-charge of the goods vehicle shall be liable to pay tax at the schedule rate applicable to the commodities alongwith penalty at 150 per cent of tax due as per Section 70(1)(c) of TNVAT Act.

Rule 15(17)(f) of the TNVAT Rules provides that the officer in-charge of the last check post shall intimate the delivery of TP to the officer in-charge of the first check post who issued the transit pass.

- Audit noticed from the records of six check posts¹⁴ that out of 69,055 TPs issued during the period from 2010-11 to 2012-13 involving movement of goods through this State, 59,102 passes were surrendered. However 9,953 TPs were kept pending for want of intimations acknowledging surrender of TPs from the officer in-charge of the designated exit check posts.

¹³ Hosur (Incoming), Kandamangalam, KG Chavadi (Incoming), KG Chavadi (Outgoing), Melavanjur and Tharangambadi

¹⁴ Hosur (Incoming), Kandamangalam, KG Chavadi (Incoming), Pattanur, Pennaiyur Bridge and Thoppur (Incoming)

Of these, Audit verified 628 TPs kept pending for want of acknowledgements at Kandamangalam check post, with the available records at Puzhal-out check post and found that 479 TPs were already surrendered and 149 TPs involving movement of goods valued at ₹ 25.61 crore¹⁵ were not surrendered as on November 2014 at the check post. The non-surrender of these 149 TPs attracted levy of tax of ₹ 3.71 crore and penalty of ₹ 5.56 crore.

After Audit pointed this out, the Department agreed (December 2014) to furnish detailed reply on receipt of report from the respective JCs (Enforcement) in this regard. Further reply is awaited.

2.4.8.4 Failure to change over to e-Transit Pass System

Government of Tamil Nadu introduced e-Transit Pass system from November 2011 wherein provisions are made to (i) enable the officers in-charge of the first / entry check post to generate TPs electronically in lieu of manual TPs for issue to the transporters moving Sixth Scheduled goods through this State; (ii) track down the vehicles to ensure the surrender of e-TPs at the designated exit check posts and, (iii) initiate immediate action in cases of non-surrender of e-TPs on the given date and time.

Despite the availability of facility in the system to generate TP, Audit noticed that the officers in-charge of the entry check posts still continued to issue manual TPs to the vehicles at entry point in the State.

The specific reasons for not opting for the e-Transit Pass system by the officers in-charge of check posts were called for, but reply was awaited (November 2014).

2.4.8.5 Improper linking of documents collected at the check posts

The CCT issued instructions in March 2010 that the copies of the sale bill and delivery note collected at the check posts and by roving squads should be sent to the assessment circles concerned and the same should be filed properly in the connected assessment files without fail.

A scrutiny of 69 assessment files, relating to 47 dealers of seven assessment circles of Coimbatore division, revealed that the assessee had made inter-State sale of goods valued at ₹ 3,080.56 crore during the years from 2010-11 to 2012-13. Audit, however, found that check post documents were not available in all the files scrutinised in audit. Audit could not ascertain whether all the documents relating to inter-State transactions were received in the assessment circles. The non-filing of check post documents in the assessment files had defeated the purpose of collection and transmission of documents by the check posts to the assessment circles, viz., cross-verification of the same with the returns furnished by the assessee to ensure the correctness thereof and to detect non-reporting of sales, if any.

¹⁵ Washing machine and Air conditioner valued at ₹ 25.55 crore and Plastic granules valued at ₹ 6 lakh. Tax due at 14.5 per cent on ₹ 25.55 crore and at five per cent on ₹ 6 lakh works out to ₹ 3.71 crore. Penalty at 150 per cent of tax works out to ₹ 5.56 crore.

2.4.8.6 Performance of roving squads

Section 69 of the TNVAT Act requires the owner or person in charge of goods vehicle to carry with him certain documents such as bill of sale or delivery note relating to goods under transport. The Act considers the failure in this regard as an offence under Section 71 and imposes penalty under sub-Section (5). However, sub-Section (1) of Section 72 of the Act provides the offender an option for composition of offence and if an offence consists of failure to pay or attempt to evade or evasion of any tax payable, he shall pay, in addition to the tax so payable, a sum of money not exceeding rupees two thousand or double the amount of any tax payable whichever is greater.

The CCT issued instructions in November 2010 that bills and delivery notes collected by the roving squads should be sent to the Office of the JC (Enforcement) on the same day and these bills and delivery notes should be updated in the computer.

Audit observed in four out of 11 roving squads in Coimbatore division that while forwarding the cheques collected by them towards advance tax to the AAs concerned, the officer in-charge of the roving squads did not forward or encloses copies of bills and delivery notes obtained from the transporter of goods. Similarly, audit scrutiny of records in the Office of the DC (Enforcement), Tirunelveli revealed that bills and delivery notes were not received from the roving squads.

During Exit Conference, the Government agreed to furnish reply on receipt of reports from the Enforcement divisions. Further reply was awaited (November 2014).

2.4.9 Co-ordination with other Departments

The Tamil Nadu Commercial Tax Manual (Volume III – Standing Order 225 c (iii)(2) prescribes that EW should co-ordinate with other Departments/agencies, obtain information from them and make use of the same in detecting suppression and evasion of tax. Audit reviewed the initiatives taken by EW in this regard and the results of such review are mentioned below:

Customs Department

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

The EW of the CTD is responsible for co-ordinating with other Departments like Customs, Central Excise, etc. and for obtaining information from them. Details of imports are collected from Harbour Wharf, Chennai and Air Cargo, Chennai by the JC Enforcement-I, Chennai and from Tuticorin Port Trust by

the JC, Tirunelveli. The information obtained from the Customs Department is passed on to the Computer Centre for being uploaded in the intranet of the Department to facilitate cross verification by the AAs.

Audit findings are mentioned in the following paragraphs.

2.4.9.1 Deficiencies in the existing system

Audit analysed the details of import pertaining to Chennai, Coimbatore and Tirunelveli Divisions, which were uploaded in intranet of CTD and observed the following:

- Details were obtained from three ports only though goods valued at ₹ 16,423.36 crore were imported through other ports during the year 2012-13.
- Details of imports effected through Air Cargo, Chennai were not available for the period from April 2011 to October 2011.
- Even for periods for which information was obtained, complete details of import were not available. While goods valued at ₹ 47,252.91 crore were imported through Air Cargo Chennai during 2012-13, details of imports of ₹ 473.99 crore only were uploaded in intranet of CTD; a specific case being non-availability of details of imports of ₹ 25.92 crore out of total import of ₹ 31.16 crore effected by a dealer through Chennai Air Cargo during April 2012.
- The details were uploaded in intranet in the same form in which they were obtained. No analysis was undertaken to ascertain the TIN of importers and their jurisdictional assessment circles. In the absence of the above details, the AAs of the assessment circles could not make use of the data uploaded in intranet in the verification process.
- Check points – Though proposal for establishment of check point at Chennai Air Cargo was submitted to the Government in August 2009, the check point was established only in February 2012. The check point received 1,25,536 bill of entries out of 2,27,491 imports and 1,01,955 escaped the purview of check point. Audit further, noticed that only 42,613 documents were forwarded to the assessment circles. The check point at Tuticorin Sea Port had not started functioning as of September 2014.

Thus, the failure of EW to obtain complete details of import of goods by dealers and the failure of the AAs to utilise the details uploaded in intranet resulted in escapement of taxable turnover and consequent non-levy of tax and penalty as mentioned in the following paragraphs.

2.4.9.2 Non-filing of returns/filing of 'Nil' returns by registered dealers who imported goods

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

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

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

Audit scrutiny of the details obtained from the Customs Department indicated that 61 dealers of 14 assessment circles¹⁶ of Chennai Divisions imported goods valued at ₹ 1,521.81 crore during the years 2011-12 and 2012-13. Cross verification with the CTD database revealed that the dealers either did not file monthly returns or did not disclose any turnover of purchase or sale ('Nil' returns) in the returns filed by them with the jurisdictional AAs of the CTD. The AAs of the assessment circles were not aware of the imports undertaken by the dealers and did not initiate action. The tax and penalty leviable on the turnover, which was not disclosed by the dealers after addition of gross profit of 10 *per cent*, works out to ₹ 236.92 crore and ₹ 355.38 crore respectively.

After Audit pointed this out (between April and July 2014), the AAs of four assessment circles¹⁷ issued notices to 45 dealers; of which, 42 notices were returned unserved due to non-availability of dealers at the registered place of business. Further report regarding revision of assessment and reply in respect of the remaining 16 cases was awaited (November 2014).

2.4.9.3 Non-reporting/short-reporting of imports

Section 21 of the TNVAT Act read with Rule 7(1)(a) of the TNVAT Rules provides that every dealer registered under the Act shall file return, in the prescribed form showing the total and taxable turnover within the prescribed period, in the prescribed manner along with proof of payment of tax. The returns require furnishing of details of purchases including imports in Annexure-I thereto.

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

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

¹⁶ Adyar-II, Alwarpet, Chintadripet, Egmore-I, Esplanade-II, Guindy, Harbour-I, Ice House, Mandaveli, Mannady (East), Mylapore, Perambur, Royapettah-I and Sriperumbudur

¹⁷ Chintadripet, Egmore-I, Esplanade-II and Harbour-I

- Audit analysed the data obtained from Customs Department and noticed that 11 dealers of five assessment circles¹⁸ of Chennai and Tirunelveli Divisions imported goods valued at ₹ 42.17 crore during the period 2011-12 and 2012-13. The dealers did not disclose any turnover of import purchase in the returns filed by them with the CTD. The AAs failed to cross verify the import purchase available in intranet of CTD and did not initiate action. The sales turnover corresponding to such imports works out to ₹ 46.39 crore. The tax and penalty, leviable on the turnover which was not disclosed by the dealers, works out to ₹ 6.72 crore and ₹ 10.08 crore respectively.

After Audit pointed this out (between April and July 2014), the AAs of three assessment circles¹⁹ issued notices to seven dealers, of which five notices were returned unserved due to absence of the dealers at the registered place of business. Further report regarding revision of assessment and reply in respect of the remaining four cases was awaited (November 2014).

- Audit analysed the data obtained from Customs Department and noticed that seven dealers of four assessment circles²⁰ of Chennai Divisions imported goods valued at ₹ 35.89 crore during the period 2011-12 and 2012-13. However, the sales turnover disclosed by the dealers in the monthly returns filed by them with the CTD was ₹ 1.58 crore. The sales turnover corresponding to import of goods, which was not disclosed by the dealers, works out to ₹ 37.73 crore. The tax and penalty leviable thereon works out to ₹ 5.43 crore and ₹ 8.14 crore respectively.

After Audit pointed this out (between April and July 2014), the AAs of Chindadripet and Harbour-I assessment circles issued notices to five dealers, of which three were returned unserved. Further report regarding revision of assessment and reply in respect of the remaining two cases was awaited (November 2014).

2.4.9.4 Import of goods by dealers who filed annual returns

As per Section 16(1) of the TNVAT Act, in the case of goods imported into the State, the stage of levy shall be deemed to commence at the stage of sale or purchase effected immediately after the import of such goods.

Rule 7(7) of the TNVAT Rules provides that every registered dealer who is not liable to pay tax under the Act shall file return for each year, in Form I-1 on or before the 20th day of May of the succeeding year, showing the actual total turnover in respect of all goods dealt with by him.

Audit analysed the data obtained from Customs Department and noticed that 16 dealers of six assessment circles²¹ of Chennai Division effected import of goods valued at ₹ 52.40 crore during the years 2011-12 and 2012-13. Verification of 'Dealer Profile' in intranet of CTD indicated that these dealers were 'non-assessee resellers' and were liable to file annual return in Form I-1. Thus, the corresponding sales turnover of goods imported by these dealers

¹⁸ Chintadripet, Harbour-I, Mannady (East), Palayamkottai and T.Nagar (North)

¹⁹ Chintadripet, Harbour-I and Mannady (East)

²⁰ Chintadripet, Harbour-I, Mannady (East) & Royapettah-II

²¹ Harbour-I, Koyambedu, Luz, Mannady (East), Vadapalani-II and Washermanpet

escaped assessment from levy of tax. Tax and penalty, leviable on the taxable turnover which was not disclosed by the dealers, works out to ₹ 8.27 crore and ₹ 12.41 crore respectively.

After Audit pointed this out (between April and July 2014), the AAs of Harbour-I and Mannady (East) assessment circles issued notices to two dealers, out of which one was returned unserved. Further report regarding revision of assessment and reply in respect of the remaining 14 cases was awaited (November 2014).

2.4.9.5 Non/short-reporting of imports in 'Form WW'

Section 63-A of the TNVAT Act introduced with effect from 30 August 2012 provides that every registered dealer, whose total turnover including zero rate sale and sale in the course of inter-State trade or commerce exceeds ₹ one crore, shall get his accounts in respect of that year, audited by a Chartered Accountant and shall furnish the audit report in Form-WW, duly signed and verified by the Chartered Accountant, to the AA within seven months from the end of the year.

Audit scrutiny of the details obtained from the Customs Department indicated that 21 dealers of 10 assessment circles²² of Chennai and Tirunelveli Divisions imported goods valued at ₹ 390.31 crore during the year 2012-13. The dealers, however, reported import purchase of ₹ 239.06 crore in the audited statement in Form WW filed by them with the jurisdictional AAs of the CTD. The AAs failed to detect the short accounting of imports by the dealers.

After Audit pointed this out to the Department between April and July 2014, the AAs of Mannady (East) and Palayamkottai assessment circles issued notices to five dealers. Further report was awaited (November 2014).

2.4.9.6 Incorrect computation of taxable turnover

Audit noticed that the assessment of two dealers, of T.Nagar (North) and Ice House assessment circles for the years 2011-12 and 2012-13, were finalised (October 2013 and April 2013) to the best of judgment by the AAs by addition of gross profit to the import purchase suppression value of goods of ₹ 7.27 crore and the suppressed sales turnover was determined as ₹ 7.90 crore. While the value of import purchase suppression was determined on the basis of proposals forwarded by EW in one case; in the other, the same was determined on the basis of details uploaded in intranet of Department. Audit, however, noticed from the details of import obtained from the Customs Department that the dealers had imported goods valued at ₹ 212.01 crore during the years 2011-12 and 2012-13, and the same was not disclosed by them to the CTD. Similarly, Audit noticed that the RC of a dealer of Ice House assessment circle was cancelled by the AA in October 2012 based on the instructions of EW that no such dealer was available at the place of business. The EW mentioned the imports effected by the dealer to be around ₹ one crore, though details of import of goods for ₹ 18.95 crore by the dealer

²² Chintadripet, Guindy, Koyambedu, Mannady (East), Palayamkottai, Porur, Shengottah, Tirunelveli (Bazaar), Tirunelveli (Tower Junction) and Tirunelveli (Town).

during 2011-12 was obtained by EW and uploaded in intranet of CTD. Audit, however, noticed from the import details obtained from the Customs Department that the dealer had imported goods valued at ₹ 34.75 crore and ₹ 60.99 crore during the years 2011-12 and 2012-13 respectively. The sales turnover corresponding to the purchase of goods suppressed by the three dealers works out to ₹ 339.67 crore. The tax and penalty, leviable on the suppressed turnover, works out to ₹ 49.25 crore and ₹ 73.88 crore respectively. Thus, the failure of the EW, to obtain full details of import and incorrect formulation of proposal, led to incorrect computation of taxable turnover and consequent non-levy of tax and penalty.

After Audit pointed this out (May 2014), the AA, Ice House assessment circle issued notices (July 2014) to two dealers and the AA, T.Nagar (North) stated (June 2014) that notice would be issued to the dealer. Further report regarding revision of assessment was awaited (November 2014).

Railways

Para 6.3.0 of the VAT Audit Manual indicate the possibility of malpractice in respect of goods booked to 'Self' and consigned to other States through Rail and underlines the importance of tackling evasion by Enforcement in such cases in the interest of revenue. In order to ascertain the system followed by CTD for ensuring proper accounting of inter-State movement of cardamom by the dealers, Audit gathered the details of movement of cardamom for the period from 2011-12 to 2012-13 from Dindigul Railway Parcel office, which is the nearest rail head to Bodinayakanur and compared the same with the returns filed by the dealers with CTD. Such cross verification revealed the following:

2.4.9.7 CTD finalised the assessments of 14 dealers for the years 2011-12 and 2012-13 treating their inter-State transactions as consignment sales. On verification, audit noticed that these dealers did not disclose the value of cardamom of ₹ 22.62 crore sent through rail in parcels marked as 'Self', which constituted stock transfer. The tax and penalty, leviable on this suppressed turnover, worked out to ₹ 1.25 crore and ₹ 1.85 crore respectively.

- Audit, while scrutinising the monthly returns filed under CST Act by six dealers whose assessments were not finalised, noticed that these dealers had either not reported (₹ 7.21 crore) or short reported (₹ 6.87 crore) the value of cardamom sent through rail in parcels marked as 'Self'. Tax and penalty involved in respect of the turnover suppressed by the dealers, worked out to ₹ 70 lakh and ₹ 1.05 crore respectively.

- Audit further noticed that since the RCs of 19 of the above dealers were cancelled, the possibility of recovery of tax and penalty was remote.

The prevalence of evasion of tax in cardamom by dealers of Bodinayakanur in the guise of consignment sales pointed out in earlier Audit Reports of the Comptroller and Auditor General of India, Revenue Receipts for the years 2004-05, 2008-09 and 2010-11 as well as in the present Performance Audit requires serious attention of the Department, especially by the EW in finding ways to curtail such evasion of tax.

After Audit pointed this out, the Department agreed (June 2014) to examine the issue. Further report was awaited (November 2014).

Tamil Nadu Generation and Distribution Corporation Limited

2.4.9.8 Sale of windmills was assessable to tax at the rate of four *per cent* upto 11 July 2011 and at five *per cent* thereafter at the point of first sale in the State.

The name transfer records in connection with the transfer of commissioned windmills are maintained by Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO). Audit obtained the details of transfer of windmills from the records of TANGEDCO and cross-verified the same with the returns filed by the sellers of windmills with CTD to ascertain the payment of tax on the transaction of sale of windmills.

Cross verification by Audit revealed that five dealers of four assessment circles²³, who sold windmills valued at ₹ 3.75 crore during the years 2011-12 and 2012-13, did not disclose the same in the monthly returns filed by them with CTD. The AAs were not aware of the transaction of sale of windmill and therefore, did not initiate action for levy of tax thereon.

After Audit pointed this out, the AAs determined the sales turnover of windmills at ₹ 4.49 crore and raised additional demand of ₹ 20.04 lakh, of which, ₹ 17.48 lakh was collected. Report regarding collection of the balance amount of ₹ 2.56 lakh in respect of a case pertaining to Karur (West) was awaited (November 2014).

2.4.10 Functioning of Inter-State Investigation Cell

The Inter-State Investigation Cell (ISIC) was formed with effect from 1 April 1975 with two Deputy Commercial Tax Officers under the control of the Deputy Commissioner (Intelligence). There are four groups in the ISIC and each group consists of one Commercial Tax Officer and one Deputy Commercial Tax Officer.

Inter-State transactions, which require investigation are referred to ISIC by the CTD of other States and the assessment circles in the form of extracts verification (EVs). The extracts received from other States are verified by the ISIC in the concerned assessment circle in the State and the results are communicated to the respective States. Similarly, inter-State transactions referred by the assessment circles in the State are forwarded to the investigative wings of the other States for verification.

²³ Karur (South), Karur (West), Nungambakkam and Palladam.

The pendency position of EV as on 31 March 2014 is given in **Table 2.6.**

Table: 2.6

Period of delay	No. of EVs	Percentage of pendency	Revenue (₹ in crore)
Less than one year	33	16.75	136.37
1 to 3 years	50	25.38	111.27
3 to 5 years	92	46.7	59.04
More than 5 years	22	11.17	37.75
Total	197	100.00	344.43

Audit noticed the following deficiencies in the functioning of ISIC:

Table:2.7

EV No.	Referred by	Details	Deficiencies noticed
84/2012-13	JC (Enforcement)	Stock transfer of iron and steel from Puducherry	ISIC gathered details of movement of goods on stock transfer from Puducherry (between December 2012 and February 2013) and based on cross verification with the returns filed by the dealer, ISIC presumed evasion of tax and forwarded the details to the assessment circle for further action. However, no notice was issued to the dealer and follow-up action was not taken even after one and half years since the collection of details (September 2014).
34/2007-08	Enforcement division, Coimbatore	Inter-State sale of oil	ISIC was asked to verify (August 2007) details of movement of vegetable oil effected by a dealer, whose RC was cancelled with effect from 1 April 2007. ISIC issued reference to the authorities in Maharashtra (February 2009) but failed to follow it up.
3 / 2011-12	Mannadi assessment circle	Transit sale of excavator	ISIC was asked to verify the movement of goods as the genuineness of claim of exemption of transit sale was suspected in the assessment circle as no check post entry was made in the bill during transportation from Pune to Chennai. ISIC issued reference to the sales tax authorities in Pune in May 2011 but failed to follow it up. The issue was still pending (November 2014).
54/2010-11	Enforcement division, Salem	Inter-State purchases after cancellation of RC	The JC (Enforcement) Salem asked ISIC to obtain details of purchase of goods effected by a dealer in Karur from a dealer of Maharashtra State (July 2010). ISIC addressed the authority in Maharashtra in August 2010 but did not undertake follow-up action. The details were to be obtained as of September 2014.

			Audit, however, observed from the dealer profile and check post modules of intranet of the CTD that the dealer, whose RC was cancelled in March 2007, had purchased goods valued at ₹ 2.07 crore during the period from 2007-08 to 2010-11.
27/2012-13	Enforcement division, Coimbatore	Purchase of pan masala from Nagpur	Details of sales made by a dealer of Maharashtra State to dealers in Coimbatore was sought to be obtained (June 2012) as roving squad detected evasion of tax of ₹ 9.32 lakh in respect of a single transaction. The details were to be obtained by ISIC as of September 2014.
156/2007-08	Enforcement division, Salem	Purchase of chemicals	Enforcement division, Salem asked (March 2008) ISIC to obtain details of purchases made by a dealer of Chithode assessment circle from Mumbai and Madhya Pradesh. The case was closed even without obtaining details from Madhya Pradesh.
15/2008-09	Enforcement. Madurai division	Purchase of ghee	Enforcement division, Madurai requested (May 2008) ISIC to obtain details of purchase of ghee by a dealer pertaining to Palani assessment circle from Mumbai. The ISIC sought (May 2008) details regarding invoice copies, declaration forms, ledger extracts, etc. from Enforcement division, Madurai. However, the case was closed without obtaining any details from Madurai and Mumbai.

2.4.10.1 Communication of bogus transactions

As per the guidelines of the CCT (December 1990), if on verification, the ISIC found any bogus transaction involving dealers of other States, details of such bogus dealers should be communicated to all JCs within the State. However, Audit noticed that the ISIC did not maintain list of bogus dealers and did not forward any such details to the assessment wing. The ISIC also did not upload details in the intranet of the CTD for the use of AAs.

2.4.11 Conclusion

Audit noticed that adequate number of dealers, based on the criteria specified in the TNVAT Audit Manual, were not selected for the purpose of VAT audit/surprise inspection. There was no monitoring mechanism to ensure the conduct of VAT audit/surprise inspection in all cases selected by CCT. Absence of effective monitoring system was also evident from delay in communication of VAT audit notes/surprise inspection proposals noticed during audit. Poor capturing of details of vehicle movement in the System, coupled with the insufficient linking of documents collected at the check posts, had rendered impossible cross verification of the details with the returns furnished by the assesseees. The benefits, accruing as a result of computerisation, were not effectively utilised by the officers in-charge of the

check posts to guard against evasion of tax in respect of transactions effected by dealers whose RCs were cancelled. The existing procedure followed by CTD for collection and dissemination of details of import had not achieved its objectives, viz., ensuring proper accounting of all imports by the dealers.

2.4.12 Recommendations

The Department may expedite action for finalising the cases involving suppression of sales and evasion of tax and speed up the recovery process so as to ensure that the amounts due to Government are realised.

The Department may consider instituting measures for-

- establishing an effective monitoring system to ensure that VAT audits/surprise inspections are conducted and the VAT audit notes/inspection proposals are communicated to the assessment wing for implementation without any delay;
- capturing all the available information in the Commodity Movement Monitoring Module to monitor the movement of goods across the check posts;
- utilising the available information, to ascertain the genuineness of the dealers transporting goods through the check posts, so as to arrest evasion of tax;
- collection of department-centric import data as against unit-centric information, to ascertain the imports in entirety and process the data received from Customs Department into easily usable and understandable information, which would enable the AAs to take timely action;
- periodical monitoring to ensure the effective utilisation of the data by the AAs in unearthing sales/purchase suppression; and
- submission of periodical reports by the AAs to the jurisdictional EW, detailing the action taken by them on the basis of the details uploaded in intranet.

2.5 IT Audit on the “Issue of e-Transit Pass and e-Payment”

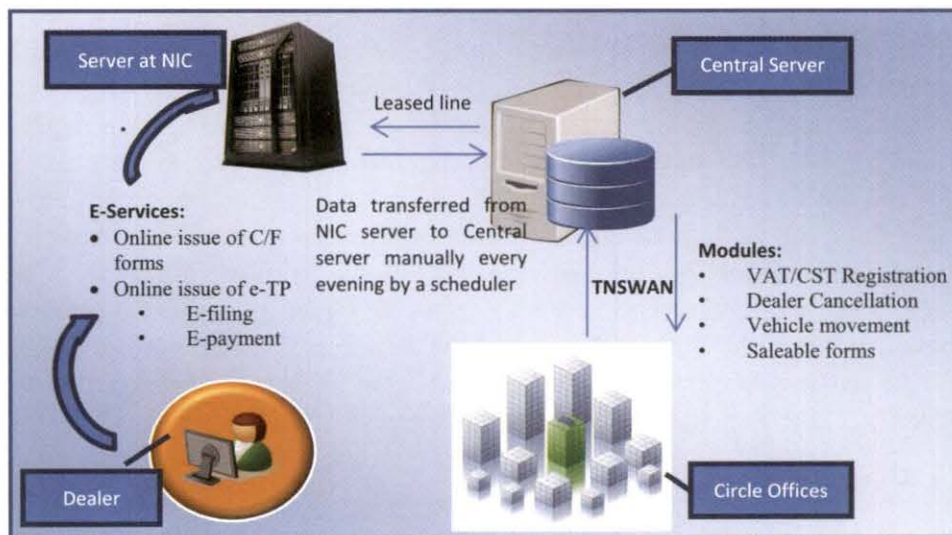
2.5.1 Introduction

Among the various e-services provided by the Government, the e-Transit Pass (e-TP) system was introduced with effect from November 2011 to facilitate the dealers to generate online, the Transit Pass (TP) for movement of goods (where sale is not effected in the home State) out of State or passing through the home State.

The TNVAT Act provides that person in-charge of a goods vehicle carrying any goods mentioned in the Sixth Schedule of TNVAT Act²⁴ from one State to another State through the State or from the State to another State as the case may be, shall obtain TP prescribed in Form-LL, in triplicate, from the officer in charge of the first check post or from the respective jurisdictional assessing authority as the case may be. The TP shall be surrendered to the officer in charge of the last check post before leaving the State. Tamil Nadu Value Added Tax Rules, 2007, (TNVAT Rules) provide that the seller or consignor or transferor of the said goods may generate TP in Form LL electronically.

Similarly, the Government introduced the facility for e-Payment of taxes through the website of the Department in a phased manner from September 2009 to bring all the dealers to opt for e-Payment. Initially, this facility was made available through the State Bank of India. Later, it was extended to five banks in 2011 and as of November 2014, e-Payment facility was available in 22 banks.

The Department provides various services to dealers and functionalities to its staff using two applications as depicted in the chart below:



²⁴

Diesel engine, Marbles, Raw rubber, Refrigerators, Air-conditioners, Washing machines, Alcoholic liquors, Foreign liquors, Kerosene, Plastic raw materials, Petrol, and Diesel[HSD].

The Department Application (accessed through www.tnct.gov.in) is mainly used by the Territorial wing to register dealers, track the payment of VAT and CST that are due from dealers and is used by Enforcement personnel to monitor vehicle movement at check posts. There is an Intranet site in TNSWAN (Tamil Nadu State Wide Area Network) which runs on JBoss Application/ Web server with PostgreSQL as database. The Dealer Application (access through www.tnvat.gov.in) is an internet website hosted by National Informatics Centre [NIC], using Dot Net technology/ framework and MS SQL Server as database, which is used by dealers to e-file their returns and has other e-services. Dealer data from 'NIC' database is transferred to the Department database every evening by a scheduler. All offices are connected using TNSWAN (8 mbps till district headquarters and 2 mbps from district till assessment circles). The Department has provided connectivity to all the offices even in remote locations.

2.5.2 Organisational set up

The CCT is the head of the CTD. The JC (Computer Systems) is entrusted with the responsibility of monitoring the implementation of the e-TP and e-Payment systems. The JC (North) is authorised dignitary for e-Payment reconciliation. National Informatics Centre is responsible for maintaining the e-TP and e-Payment systems. The check post officers under the EW of CTD upload the details of e-TPs surrendered at the check post into the system. The AAs of the assessment circles are required to verify the proper accounting of the e-TPs through the system, and initiate action for levy of tax and penalty in respect of non-surrender of e-TPs at the exit check post.

2.5.3 Computerisation

2.5.3.1 e-TP system

As per the user manual for e-TP system for dealers (November 2011) issued by the department, the facility of generating e-TP enables the dealers to generate TP online for inter-State movement of goods specified in the Sixth Schedule. They can register the movement of goods, bill details and generate e-TP through the web site <http://ctaxcms.tn.nic.in/eTransitPass>. The dealer has to surrender the e-TP at the exit check post and the check post officers can cross check the goods details before allowing the vehicle to move out of the State and need to upload the surrendered e-TP in the System. In respect of vehicles which pass through the State (where sale transaction is effected between States other than passing State), the movement can also be recorded using the web site either by other State dealer or by the check post officer.

2.5.3.2 e-Payment system

There are two types of payment account, one for the retail account holder and the other for the corporate account holder.



The retail account holder can connect to the TNVAT site and make payment through any of the designated Banks. The Bank will generate e-challan for the payment made by the dealer. The method of payment is the same for corporate account dealer also, but the status for the payment will be shown as 'pending' in the TNVAT site, till the approver authorises the transaction. After the transaction is approved by the approver, the transaction gets completed and e-challan can be generated from the bank's site. The status in the TNVAT site becomes 'approved' and e-acknowledgement can be generated. The JC (North) is responsible for reconciliation of e-Payment with treasury account.

2.5.4 Audit Objectives

The main objectives of this audit were to ascertain whether:

- there existed proper documentation for system design, user requirement specifications and system requirement specifications;
- there existed proper input validation, process and security controls to ensure authenticity, completeness and accuracy of the data;
- timely action was taken by the Department in respect of e-TPs, which were not surrendered at the intended check posts; and
- desired objective of bringing more number of dealers into e-Payment system was achieved.

2.5.5 Scope and methodology

IT audit on Computerisation of VAT Information system in CT Department was conducted and it appeared in the Audit Report of the Comptroller and Auditor General of India for the year ended March 2009. Hence, the e-services: e-TP and e-Payment which have been introduced subsequently were covered in this thematic study.

The study was conducted covering the three year period from 2010-11 to 2012-13. The project files relating to the implementation of both the systems made available in the office of the JC (Computer Systems) were scrutinised.

The details in the dump data of e-TP and e-Payment systems made available to audit were also analysed in the study. Out of 323 assessment circles in the State, 43 assessment circles²⁵ in four divisions of Chennai (including 100 dealers of LTUs at Chennai) and Coimbatore involving major number of dealers of goods mentioned in the Sixth Schedule of the TNVAT Act were selected for the study. The study was conducted between June and August 2014.

Audit Findings

2.5.6 System Issues – e-TP system

- **Absence of documentation:** Audit observed that there was no documentation for the existing e-TP and e-Payment application like User Requirement Specifications (URS), System Requirement Specifications, Systems Design, etc. In the absence of such documentation there exists the risk of the management losing control of ownership/deliverables of the project. Audit enquired into the reasons for the absence of documentation. No reply has been furnished by the department (November 2014). With regard to the status of development of "Total Solution Project" (TSP), the new software application project undertaken by the CTD, the department replied that, the department is developing TSP as a single application covering dealer and department applications, which is to be rolled out in 2015 and is in the stage of finalising URS for the same.
- **Poor usage of the system at monitoring level:** Officers in the assessment circles should monitor the surrender of e-TPs through the system and issue notices to the dealers for the non-surrender of e-TPs. The details of e-TPs not surrendered should be cross verified in assessment circle with the details furnished in Annexure II (sales details) of the monthly returns filed electronically by the dealer. Suppression of sales, if any, could be noticed and leakage of revenue detected. The system of e-TPs was introduced in November 2011. But during scrutiny of login details from project files²⁶, audit observed that the officers at monitoring level, except LTU division, in the assessment circles had logged in the system only from November 2013. Further, test check of 4,190 e-TPs, generated by 115 dealers pertaining to 30 assessment circles, revealed that the notices were issued for non-surrender of e-TPs only after November 2013.

Data analysis further revealed that login details were being captured in the database only from February 2014. This shows the inadequate usage of system at circle and division level where the issue and surrender of e-TPs was to be

²⁵ Adyar-I, Adyar-II, Alandur, Alwarpet, Ambattur, Ashok Nagar, Avarampalayam, Avinashi, Avinashi Raod, Egmore-I, Egmore-II, Ganapathy, Gandhipuram, Guindy, Hosur (North), Hosur (South), Ice House, Koyambedu, LTU-I, LTU-II, LTU-III, LTU-IV, Luz, Manali, Mandaveli, Mettupalaym Road, Mylapore, Nandanam, Nungambakkam, Papanaiickenpalayam, Peelamedu (North), Perur, Podanur, Royapettah-I, Saibaba Colony, Saligramam, Singanallur, T.Nagar (East), T.Nagar (North), Thudiyalur, Tiruchy Road, Velandipalayam and Villivakkam.

²⁶ Project files include communication regarding e-transit pass between NIC and department.

monitored. Further, the effective usage of the system could be ensured by the Administrator only after more than two years since the existence of the system.

- **Absence of audit trails:** Check post functions round the clock to monitor the movement of commodities. Each check post is manned by more than one check post officer who work in shifts. Audit, however, noticed that only one user login had been created for the check post for entering the details of surrender of e-TPs. Further, audit trails of login details, such as the officer who made entries of surrender of e-TPs in the application software, date and time, etc. were not being captured in the system. In the absence of the same, Department may not be able to trace the officials concerned for wrong data entry / misuse for corrective action.
- **Absence of password policy:** The most common form of Logical access control is login identifiers followed by password authentication. For passwords to be effective, there must be appropriate password policies and procedures which are known to users and adhered to. Department may be able to tailor the password system by setting minimum password lengths with alphanumeric characters, forcing regular password changes and automatically rejecting purely numerical passwords, people's name, or which appear in the English dictionary. Audit, however, noticed from the files that the Department had not framed such password policies with regard to the users of e-TPs. Data analysis revealed (July 2014) that out of 430 users in the Department, 166 users (38 *per cent*) did not change the password periodically, as illustrated below:

Table: 2.8

Range in months	Number of users who did not change the password
7 to 12 months	38
13 to 24 months	3
25 to 32 months	105
Not changed since inception	20

- **Provision for capturing the TP details in Annexure:** The TNVAT Act requires that the inter-State movement of commodities mentioned in the Sixth Schedule should be accompanied by TP. In the monthly returns, the information regarding the issue of e-TPs was not mentioned by the dealers in respect of the inter-State sales of goods in the Sixth Schedule commodities. The system was not automatically capturing the invoice and bill details of transit pass issued, though these information was available in the system. Hence, the inter-State movement of such goods to other states could not be ensured.
- **Absence of data validation controls:** Audit analysed the e-TP data furnished by the Department for the period from November 2011 to July 2014 and observed that lack of validation controls led to the following deficiencies:
 - (i) The details of movement data and surrender data were being captured in the "movement details table". Movement date was entered by the dealer while generating the e-TP and surrender date was entered in the system by the officer in-charge of the check post upon surrender of the e-TP. Movement date, should therefore, be prior to the surrender date. Audit analysed the data

captured in “movement details table” and found that out of 4,04,122 records, in 7,152 records, the surrender date captured was prior to the movement date. For example, when the surrender date was 16.03.2012 and 9.12.2011, the movement date was 17.03.2012 and 12.12.2011 respectively. In 513 cases, the surrender date was even prior to the implementation of e-TP system. For example, though the e-TP system was implemented in November 2011, the surrender date captured was of previous years such as 2000, 2001, etc.

(ii) Audit analysis further revealed that in 7,210 cases, the surrender date consisted of future date such as 2036, 2042, etc.

(iii) In 2,639 cases, the surrender date was not captured though the goods vehicles were indicated as having crossed the intended exit check post. That is, the ‘Status’ column was set to ‘Y’, although the surrender date captured in these cases was ‘NULL’.

(iv) “MVR No.” is generated as soon as the goods transport details are entered by the dealer. “MVR No.”, which is generated as Acknowledgement Number for the e-TP generated, is a unique field which emphasises the link between three important tables such as “movement details”, “invoice details” and “bill details”. Audit analysis of the data revealed the absence of MVR No. in 543 cases in Bill details table and in 973 cases in Invoice details table. As the MVR No. was absent in the bill details and invoice details, movement details would be incomplete and would not contain such details.

- **Non-availability of single database:** Dealer data from ‘NIC’ database is transferred to the Department database every evening by a scheduler. Absence of direct link between the servers of NIC and TNVAT / TNCT could cause the cancelled dealers or ineligible dealers to generate e-TPs for easy movement of goods to other States. Further, this would give room for tax evasion.

- **Inadequate MIS report:** Assessing Officers at circle, while assessing the return, has no provision to automatically link the e-TP movement of the dealers and surrender of the same. However, a provision has been made in the system to generate a MIS report of e-TP movement of dealer for a maximum range of fortnightly periods. Though this report is useful for monitoring for the purpose of non-surrender of e-TPs and issue notice immediately, the monitoring at circle and division level for the assessment of a particular dealer for a year could not be generated in the MIS report on one occasion, as the report was restricted for the period of maximum fifteen days. In the absence of the same, the said MIS report had to be generated for several periods for the purpose of assessment, which was done annually.

- **Absence of unique codification for Sixth Schedule commodities:** As per the TNVAT Act, the mandatory provision of obtaining TP applies only to inter-State movement of Sixth Schedule goods. The commodity code pertaining to these goods, also include other goods which are not mentioned in the Sixth Schedule. Audit observed that no exclusive commodity code is assigned for goods like diesel engines, marbles, raw rubber, and washing machines mentioned in the Sixth Schedule. To illustrate, as per TNVAT Act, commodity code 329 includes ‘Electrical domestic and commercial appliances’

including mixer, grinder, oven, washing machine, etc. But washing machine is the only good among the above that has been declared in the Sixth Schedule.

Hence, in the absence of separate commodity codes for these Sixth Schedule goods, the AAs may not be able to ascertain, from the sales details furnished in Annexure-II of the monthly returns, whether the dealer actually effected inter-State sales of Sixth Schedule goods and to ensure the generation of e-TPs for the movement of those goods to other States.

Audit pointed out the above system deficiencies to the Department. Reply was awaited as of November 2014.

2.5.7 Compliance Issues – e-TP system

Non-surrender of e-TPs at the exit check posts

Section 70(1) (b) of the TNVAT Act provides that the owner or other person in charge of the goods vehicle shall deliver within the prescribed period, the TP to the officer in-charge of the last check post before the exit of the goods vehicle from the State. Section 70(2) (c) of the Act provides that on the failure of the owner or other person in-charge of the goods vehicle to surrender the TP, the goods carried thereby shall be deemed to have been sold within the State involving payment of tax in accordance with the provisions of the Act and also penalty, which shall be one hundred and fifty *per cent* of such tax.

Analysis of data relating to e-TPs revealed that 350 dealers of 110 assessment circles had generated 1,49,418 e-TPs during the period from November 2011 to March 2013 involving inter-State movement of goods mentioned in the Sixth Schedule of the TNVAT Act for ₹ 17,036.77 crore. Out of the above, 21,685 e-TPs generated by 281 dealers of 100 assessment circles for a value of ₹ 3,045.36 crore were indicated as not having been surrendered at the designated exit check post. Further 508 e-TPs for ₹ 137.86 crore, pertaining to movement of goods passing through the State, were also indicated as not having been surrendered at the designated exit check post.

Out of the above 21,685 e-TPs, 13,997 e-TPs involving ₹ 2,174.10 crore generated by 133 dealers pertained to 34 assessment circles covered in the study. The further course of action initiated in the circles in respect of e-TPs generated by the dealers of their circles and not surrendered at the designated exit check posts were called for in audit during field visit. Audit ascertained that the AAs failed to initiate action to invoke the provisions of the TNVAT Act to levy tax and penalty of ₹ 269.69 crore and ₹ 404.53 crore respectively. The failure of the AAs to initiate action also exposes inadequacies as also the ineffective monitoring by the controlling officers of the surrender of e-TPs.

After Audit pointed this out, the AAs of seven assessment circles stated that in respect of non-surrender of e-TPs generated by the dealers of their circles, notices had since been issued proposing levy of tax, while the AAs of five circles agreed to issue notices. Though one assessing officer stated that notice had already been issued in November 2012, no further action on such notice had been taken. The AAs of three assessment circles stated that since the dealers had paid tax of two *per cent* in their monthly returns for inter-State sales effected by them and for which e-TPs were generated, no further action

was initiated though the e-TPs were not surrendered at the designated exit check post. The reply is not acceptable as payment of tax is not conclusive evidence of the goods having crossed the State in the absence of non-surrender of e-TPs. Reply from the assessment circles for the remaining cases was awaited as of November 2014.

2.5.8 System Issues – e-Payment system

An analysis of the data captured in the e-Payment system maintained by NIC and made available to audit by the Department revealed the following:

- **Non- availability of e-Payment facility for other taxes**

The method of online payment is now restricted to payment of amounts pertaining to value added tax and central sales tax. The e-Payment facility is not available for payment of other taxes like entry tax, entertainment tax, luxury tax, betting tax, etc. In the absence of the same, tracking of such payments manually and other details electronically becomes cumbersome for the Department.

- **Absence of proper reconciliation of e-Payments**

After the transaction is completed, circle office can generate e-Payment summary report for the specified period containing information such as Tax Payers' Identification Number, head of account, date of payment, amount paid, etc. through their login. The date-wise e-challans are sent to JC (North) by the banks concerned along with the e-scroll.

Audit observed that no specific instructions had been issued as regards the process of reconciliation. The details of circle name, challan number, transaction id are captured manually by JC (North) from e-challan in another database (fox pro) and a report, namely, "date-wise checklist" is generated from the data. These details are cross verified with the "Circle-wise summary report" generated by the assessment circles. Missing e-challan, if any, is verified by the JC (North) with PAO (East). The reconciliation process was necessary to ensure that the e-Payment of taxes made by the dealers had actually been credited into Government account. Audit observed that this reconciliation was at present done for Chennai division only. In the absence of reconciliation of e-Payments made by dealers of other divisions, the actual remittances of such payments into government account could not be ensured.

- **Delay noticed between transaction date and bank scroll date**

The Memorandum of Understanding (MOU), entered into between the CCT and the Banks, specifies that the Bank shall transfer the amount to the Tamil Nadu Government Account on the same day or before 2 PM of the next day. The MOU further specifies that the Department shall update the records of the dealers on receipt of the payment into the Government Account and the Bank shall generate scroll for payment made by the dealers in the format prescribed by CTD daily and send a hard copy and the soft copy of the same to the Department. The data pertaining to e-Scroll is not pushed to TNVAT server

for further analysis at their end. In the absence of soft-copy of e-scroll data, the Department is unable to do the verification of each transaction with the e-Payment data.

Audit conducted a test check of e-Scroll report (hard copy) furnished by IOB dated 21-01-2013 with the e-Payment data provided by the Department and noticed delay of two to three days in transfer of payments to Government Account.

The following deficiencies were noticed in Audit:

- There is no module available in the System for the Department to verify the e-Scroll details pertaining to each transaction whether the tax has been credited into Government account and the date on which this had been transferred.
- Hard copy provided by the bank did not indicate transaction-id; a unique id for every transaction generated from the Department. In the absence of the same, the finality for each transaction could not be verified.
- In the absence of the above, the delay in remittance to Government Account by the bank for all transactions could not be ascertained. Test check of 179 transactions revealed that there was delay of three days in respect of six transactions and two days in respect of 173 transactions.

In the absence of vital information, the Department may not be in a position to ensure the remittance clause agreed in the MOU.

- **Dealers whose turnover exceeds ₹ 200 crore but had not opted for e-Payment**

While introducing the system of e-Payment in September 2009, dealers whose taxable turnover for the preceding year exceeded ₹ 200 crore were insisted to make e-Payment of tax. Audit analysis of the dump data of CTD and the e-Payment data maintained by NIC revealed that 178 dealers, whose taxable turnover exceeded ₹ 200 crore during 2010-11, did not follow the method of e-Payment of tax during 2011-12 and 168 dealers, whose taxable turnover exceeded ₹ 200 crore during 2011-12, did not opt for e-Payment during 2012-13.

2.5.9 Feedback of dealers on e-services (e-TP and e-Payment System)

Audit conducted a survey among 420 dealers of the 42 selected circles in Chennai and Coimbatore divisions covered for this study to obtain their response using a questionnaire containing 24 questions relating to various issues like quality assurance, user friendliness, etc. with regard to the e-TP and e-Payment. Responses were received from 56 dealers for e-TPs and 101 dealers for e-Payment of 19 circles.

On the whole, majority of the dealers (80 per cent) were satisfied with the e-services and opined that the quality of services were good. The dealers were also appreciative of the user friendliness of the services and opined the training

imparted by the Department to be satisfactory. A sizeable population of the dealers (36 *per cent*), however, expressed their dissatisfaction regarding the server response time²⁷, terming it as either average or below average, indicating thereby a risk of dealers becoming discouraged to utilise the e-Payment system and opting out. The Department may consider enhancing the infrastructure, viz. server capacity and bandwidth to improve the server response time.

2.5.10 Conclusion

The absence of documentation and lack of validation controls resulted in capturing of incorrect information in the system. The study indicated ineffective monitoring of the surrender of e-TPs by the AAs. Resultantly, action was not initiated to levy tax and penalty in respect of e-TPs, which were not surrendered even after a lapse of considerable period of time. The desired objective of bringing maximum number of dealers into the e-Payment system was, thus, not achieved²⁸.

²⁷ Server response time represents time taken for the online e-TP and e-Payment system to respond to requests of web portal users.

²⁸ Currently, only 58 *per cent* of dealers have been covered in e-Payment system.

2.6 Audit of “a few evasion prone commodities - Marbles, Tiles and Granite”

2.6.1 Introduction

The Commercial Tax Department (CTD) identified (December 2008) certain commodities like Iron and Steel, Rubber, Edible oil, Electrical goods, Plastic goods, Tiles, Marbles, Timber as evasion prone commodities. Subsequently, in September 2011, Granite was also identified as an evasion prone commodity. Instructions were issued (between March 2011 and January 2014) regarding the procedures to be followed by the assessing officers in respect of the commodities identified as evasion prone. These instructions pertained to issue of new Registration Certificates (RCs), action to be taken in case of non-filing of monthly returns and procedures for ensuring the correctness of claim of ITC. Under the TNVAT Act, these commodities were classified as falling under Part C of the First Schedule with Commodity Code (CC) 337. Audit of evasion prone commodities like Iron and Steel, Rubber and Timber was already conducted and featured in the Report of the Comptroller and Auditor General of India on Revenue Sector for the year ended March 2012 and hence this audit was undertaken in respect of evasion prone commodities classified under CC 337 viz., Marbles, Tiles and Granite, to examine the extent of compliance to the instructions and to ascertain whether adequate measures were taken by the AAs to check evasion of tax in respect of these commodities. Test check of records was done in 27 out of 323 assessment circles, the selection of assessment circles being based on the predominance of dealers dealing in the said evasion prone commodities. Audit was conducted from April to August 2014, covering the transactions pertaining to the period from 2008-09 to 2012-13.

2.6.2 Trend of revenue receipts of CC 337

The revenue realised from these commodities (CC 337) during the years from 2009-10 to 2013-14 *vis-a-vis* the revenue realised from all commodities identified as evasion prone is given in Table below:

Table: 2.9

(₹ in crore)

Year	Revenue of all evasion prone commodities	Revenue of evasion prone commodities with CC 337	Percentage of Col.3 to Col.2
1	2	3	4
2009-10	846.06	32.33	3.82
2010-11	1,017.36	40.32	3.96
2011-12	1,456.85	42.15	2.89
2012-13	2,259.44	96.76	4.28
2013-14	2,078.56	98.84	4.75
Total	7,658.27	310.40	
(Source: Statistics at a glance compiled by CTD) Commodity-wise details of revenue was not maintained by the Department for the year 2008-09			

The above table indicates that the proportion of revenue realised from commodities falling under CC 337 to the total revenue of all evasion prone commodities witnessed an increasing trend over the years except for a shortfall during the year 2011-12.

Audit findings

2.6.3 Issue of Registration Certificates

The CCT instructed (March 2011) the registering authorities that in respect of tiles and marbles, new RCs could be issued only after prior inspection of the intended place of business and the same was extended to granite in September 2011.

Audit ascertained from data furnished by CTD that 819 new RCs were issued during the period from 1 April 2011 to 31 March 2013 to dealers throughout the State for dealing in evasion prone commodities with CC 337, out of which the registering authorities of selected assessment circles issued 274 RCs. Test check of randomly selected 50 such cases in 10 out of 27 selected assessment circles revealed that the new RCs were issued by the registering authorities to the dealers after prior inspection of the intended place of business.

2.6.4 Watching of returns after issue of RC

The CCT issued instructions in December 2008 that after issue of RC, the AA should monitor the filing of returns by the dealers and adherence to the due dates. If 'NIL' returns were filed or no returns were filed for more than three months in a year by the dealers, the AAs were instructed to bring such cases to the notice of the EW for immediate investigation by them.

Audit analysis of data obtained from CTD revealed that 716 dealers of 22 assessment circles²⁹ did not file returns for more than three months in a year during the period from 2008-09 to 2012-13. Despite the specific instructions of CCT in this regard, Audit observed, on the basis of reply furnished by the AAs of three assessment circles, that cases of non-filers of returns were not referred to Enforcement wing. Reply in respect of the remaining assessment circles was awaited (November 2014).

2.6.5 Verification of claim of ITC

The CCT issued instructions in December 2008 regarding verification of claim of ITC pertaining to evasion prone commodities. These instructions were reiterated in September 2010 and the Territorial JCs and DCs were also instructed, to scrutinise the ITC claims pertaining to evasion prone commodities, to make scrutiny of returns more effective and result-oriented.

As per the above instructions, while scrutinising the returns, the AAs concerned were required to issue cross check references in all cases by e-mail

²⁹ Amaindakarai, Chepauk, Dharmapuri, Erode (Rural), Gudiyatham (East), Hosur (North), Hosur (South), Koyambedu, Krishnagiri, Madurai (Rural) (South), Melur, Palacode, Porur, Perambur-II, Royapettah-I, Saligramam, Tallakulam, T.Nagar (East), T.Nagar (North), Tambaram-I, Tiruverumbur and Vadapalani-I

correspondence to the AAs of the selling dealers, where the claim of ITC exceeded ₹ 5,000 in a month. Audit analysed the data obtained from CTD and found that 241 dealers of 17 assessment circles³⁰ claimed ITC in excess of ₹ one lakh in a year. The total amount of ITC claimed by the dealers, during the period from 2009-10 to 2012-13, was ₹ 31.41 crore. However, Audit observed, on the basis of reply furnished by the AAs of three assessment circles that no CCs were issued to verify the correctness of claim of ITC, which indicated that the instructions of CCT regarding verification of claim of ITC pertaining to evasion prone commodities were not adhered to by AAs. Reply in respect of the remaining assessment circles was awaited (November 2014).

Further, audit noticed the following irregularities, relating to claim of ITC, by dealers of evasion prone commodities.

- Scrutiny of MIS report generated in departmental intranet revealed that 24 dealers of 10 assessment circles³¹ purchased evasion prone commodities falling under CC 337 for ₹ 5.48 crore during the period from 2008-09 to 2012-13 and claimed ITC of ₹ 67.18 lakh. Further scrutiny of records like cancellation proceedings and dealers' profile revealed that the RCs in respect of the selling dealers were cancelled prior to the date of such purchase. As ITC is not available in respect of purchases made from unregistered dealers, the claim of ITC was not in order. The AAs, however, failed to notice the incorrect claim of ITC by the dealers.

- Similarly, Audit noticed that 16 dealers of seven assessment circles claimed ITC of ₹ 62.99 lakh in respect of purchase of evasion prone commodities falling under CC 337 and valued at ₹ 4.71 crore during the period from 2009-10 to 2012-13. The RCs of the selling dealers were, however, cancelled with retrospective effect during the period from 2010-11 to 2012-13. Though more than one year had elapsed since the last date of such cancellation, no action was taken by the AAs to ensure the correctness of claim of ITC by the dealers as provided in the Act.

After Audit pointed the above cases (July 2014), the AAs of Adyar I and Tallakulam issued notices to eight dealers. Further report regarding revision of assessment in these cases and reply in respect of the remaining cases was awaited as of November 2014.

³⁰ Adyar-I, Dharmapurai, Erode (Rural), Hosur (North), Hosur (South), Luz, Koyambedu, Madurai (Rural) (South), Palacode, Perambur II, Porur, Saligramam, Tallakulam, T Nagar (North), Tiruverumbur, Vadapalani-I and Valluvarkottam

³¹ Adyar-I, Amaindakarai, Erode (Rural), Madurai (Rural) (South), Nethaji Road, Koyambedu, Krishnagiri, Melur, Tallakulam and Vadapalani-I

2.6.6 Co-ordination with Geology and Mining Department

Granite was identified as evasion prone commodity in September 2011. The primary source of granite in the State is excavation from mining leases, the licence for which is granted by the Geology and Mining (G&M) Department. It is, therefore, necessary for CTD to obtain details of grant of leases by G&M Department to quarry granite and cross verify the same with database of CTD to ensure proper accounting of granite by the lessees. Audit, however, noticed that such co-ordination did not exist between the two Departments.

Audit obtained details of leases granted by G&M Department during the period from April 2008 to March 2013 and cross verified the same with the database of CTD to ascertain the proper accounting of granite by the holders of mining leases. Audit brought to notice of jurisdictional JCs/DCs of CTD (June 2014) the details of 170 individual lease holders whose registration status under the TNVAT Act could not be identified by Audit and consequently, the proper accounting of 3.92 lakh cu.m of granite quarried by them could not be ensured.

The DC(CT) Pudukottai replied that only one dealer was registered with CTD and the registration status of 14 individuals, who quarried 15,949.47 cu.m. of granite, could not be ascertained. Similarly, the DC(CT) Karur replied that the registration status of four individuals, who quarried 7,232.393 cu.m. of granite, could not be ascertained. Reply in respect of the remaining cases was awaited (November 2014).

Thus, the CTD could not ensure proper accounting of granite quarried by individual lease holders in the State due to lack of co-ordination with G&M Department.

2.6.7 Non-accounting/reporting of purchase

The provisions of the TNVAT Act and the Rules made thereunder provide that every registered dealer liable to pay tax under the Act shall file return for each month in Form I. The details of purchase of goods including import and inter-State purchases are required to be mentioned in Annexure I thereto. Section 63-A of the TNVAT Act, introduced with effect from 30 August 2012, provides for furnishing of audit report in Form WW by dealers whose total turnover exceeds ₹ one crore. According to Section 25 of the TNVAT Act, if the return submitted by the dealer appears to the AA to be incomplete or incorrect, the AA may determine the tax payable by the dealer to the best of its judgment.

According to Section 16(1) of the TNVAT Act, in the case of goods imported into the State, the stage of levy shall be deemed to commence at the stage of sale or purchase effected immediately after the import of such goods.

Audit cross verified the import details obtained from the Customs Department for the years 2011-12 and 2012-13 with the monthly returns /audit report in Form WW filed by the assesseees with the CTD. Such cross verification revealed the following deficiencies:

- **Short-accounting of import**

Audit scrutiny of the details obtained from the Customs Department indicated that five dealers of five³² assessment circles imported porcelain and vitrified tiles valued at ₹ 20.24 crore during the year 2012-13. Scrutiny of the audit report in Form WW/sworn affidavit filed by the dealers, however, indicated import of goods valued at ₹ 13.98 crore. The AAs concerned failed to cross verify the import value of goods mentioned in the Audit report in Form WW/sworn affidavit filed by the dealers with the details of import uploaded by the EW in intranet of CTD. Thus, there was short accounting of import of ₹ 6.26 crore. The tax leviable on the turnover not accounted for by the dealers worked out to ₹ 90.75 lakh.

Audit pointed this out to the Department (May 2014) and reply was awaited (November 2014).

- **Non/short-reporting of import**

Audit scrutiny of the details obtained from the Customs Department indicated that two dealers of Koyambedu and Porur assessment circles imported goods falling under CC 337 for ₹ 109.15 crore during the years 2011-12 and 2012-13. Further scrutiny of the details of purchases, furnished in Annexure I of the monthly returns filed by them with CTD, revealed that the dealers reported import purchase of goods falling under CC 337 for ₹ 85.73 crore. Thus, there was short reporting of imports of ₹ 23.42 crore by the dealers in the monthly returns submitted by them with CTD.

Audit pointed this out to the Department (May 2014) and reply was awaited (November 2014).

2.6.8 Incorrect rate of tax

According to Section 3(2) of the TNVAT Act, in respect of goods specified in Part B or Part C of the First Schedule, tax shall be payable by a dealer on every sale made by him within the State at the rate specified therein. Granites were taxable at the rate of 12.5 *per cent* upto 11 July 2011 as per entry 36 of Part C of First Schedule to the Act.

Scrutiny of monthly returns filed by a dealer of West Veli Street assessment circle revealed payment of tax at the rate of four *per cent* on the sale of granite valued at ₹ 2.19 crore effected by him during the years 2009-10 and 2010-11 instead of at the correct rate of 12.5 *per cent*. The AA failed to ensure payment of tax at correct rate by the dealer. The adoption of incorrect rate of tax resulted in short levy of tax of ₹ 18.60 lakh. After Audit pointed this out (September 2012), the Department revised the assessment (February 2014) and

³² Adyar-I, Perambur-II, Porur, Tambaram-I and Tallakulam

raised additional demand of ₹ 18.60 lakh. Further report regarding collection of the additional demand was awaited (November 2014).

Audit reported the matter to the Government in September 2014. Reply of the Government was awaited (November 2014).

2.6.9 Conclusion

Audit of evasion prone commodities classified under CC 337 viz., Marbles, Tiles and Granite, revealed that cases of non-filers of returns were not referred to EW for investigation, despite instructions issued in this regard. Scrutiny of returns by the AAs was ineffective in ensuring the correctness of claim of ITC and thereby guarding against evasion of tax. As a result of lack of coordination with G&M Department, the CTD could not ensure proper accounting of granite quarried by individual lease holders in the State.

2.7 Other Audit Observations**Value Added Tax****2.7.1 Application of Incorrect rate of tax**

2.7.1.1 The rate of tax on sale of any goods (except petrol, diesel and cement), taxable at a rate higher than four *per cent*, was reduced to four *per cent* with effect from 1 April 2002 when they were sold to State and Central Government Departments including Indian Railways by issue of a Notification³³ (March 2002) under the Tamil Nadu General Sales Tax Act, 1959 (TNGST Act). The rate of tax was modified as five *per cent* with effect from 12 July 2011 vide another Notification³⁴ issued (July 2011) under the TNVAT Act.

Concrete sleepers, which were classified as residuary goods under entry 69 of Part C of the First Schedule to the TNVAT Act, when sold to Railways were therefore, taxable at four *per cent* upto 11 July 2011 and five *per cent* thereafter.

Test check of monthly returns in Kilpauk assessment circle (November 2013) revealed that three dealers sold concrete sleepers valued at ₹ 37.48 crore to Southern Railways during the year 2011-12 and paid tax at the rate of four *per cent*. As the rate of tax applicable on sale of concrete sleepers to Indian Railways was five *per cent* with effect from 12 July 2011, the payment of tax at four *per cent* in respect of sales valued at ₹ 24.72 crore made during the period from 12 July 2011 to 31 March 2012 was not in order. The AA, while scrutinising the monthly returns, failed to detect the short-payment and take remedial action. This resulted in short payment of tax of ₹ 24.72 lakh.

After Audit pointed this out (November 2013), the Department replied (November 2013) that sale of concrete sleepers to Indian Railways was taxable at four *per cent* as per Notification³⁵ issued in November 1991 under the TNGST Act and the said Notification continues to be in force as per clarification³⁶ of the CCT issued in this regard.

However, the Notification issued under the TNGST Act, ceased to be in force as per the provisions of Section 88 (3)(i) of the TNVAT Act since the same was inconsistent with the rates of tax provided under the TNVAT Act.

Audit reported the matter to the Government in April 2014. Reply was awaited (November 2014).

2.7.1.2 According to Section 3(2) of TNVAT Act, in the case of goods specified in Part B or Part C of the First Schedule, the tax shall be payable by a dealer on every sale made by him within the State at the rate specified therein.

Goods mentioned in Part-B and Part C of the First Schedule were taxable at the rates of four and 12.5 *per cent* respectively upto 11 July 2011. By issue of

³³ Notification No.II(1)/CTR/19(b-10)/2002 dated 27.3.2002

³⁴ Notification II(1)/CTR/12(R-16)/2011 dated 19.7.2011

³⁵ Notification No.II(2)/CTRE/5677/91 dated 6.11.1991

³⁶ Letter No.Acts Cell II/17166/13 dated 26.7.2013

Notification (July 2011), the Government increased the rates to five and 14.5 *per cent* respectively with effect from 12 July 2011.

Test check of monthly returns filed by 13 dealers of nine assessment circles³⁷ (between April and December 2013) revealed that during the period from 12 July 2011 to 30 November 2011, the dealers paid tax at the rates of four and 12.5 *per cent* on the sales turnover of ₹ 11.56 crore and ₹ 20.62 crore respectively instead of at revised rates of five and 14.5 *per cent* respectively applicable with effect from 12 July 2011. The AAs failed to detect the payment of tax at incorrect rates, while scrutinising the monthly returns filed by the dealers. This led to short-realisation of tax of ₹ 43.75 lakh.

After Audit pointed this out, the Department replied (between July 2013 and January 2014) that the assessment was revised in one case pertaining to Velacherry assessment circle realising a sum of ₹ 1.26 lakh and an amount of ₹ 16.83 lakh was collected from other four dealers pertaining to three assessment circles³⁸. Copies of revision orders and reply in respect of remaining eight cases were awaited (November 2014).

Audit reported the matter to the Government between February and May 2014. Government accepted (July 2014) the audit observation in respect of three cases pertaining to Anna Salai-II and Brough Road assessment circles. Reply in respect of other 10 cases was awaited (November 2014).

2.7.1.3 According to Section 3(2) of TNVAT Act, in the case of goods specified in Part B or Part C of the First Schedule, the tax shall be payable by a dealer on every sale made by him within the State at the rate specified therein.

Biscuits of all varieties sold with brand name were taxable at the rate of 12.5 *per cent* upto 11 July 2011 and 14.5 *per cent* thereafter under entry 8 of Part-C of First Schedule.

The Government issued Notification in March 2002, reducing the rate of tax to four *per cent* on sale of any goods, which are taxable at a rate higher than four *per cent* except petrol, diesel and cement, when sold to State and Central Government Departments including Railways. The rate was increased to five *per cent* with effect from 12 July 2011 by issue of another Notification.

Test check of records in LTU-III assessment circle (March 2013) revealed that a dealer sold biscuits and cakes amounting to ₹ 91.67 lakh to M/s Indian Railway Catering and Tourism Corporation (IRCTC) during the period from 2007-08 to 2010-11. Audit further noticed that while finalising the assessments (May 2010), the AA levied tax at the rate of four *per cent* on the said turnover. As the concessional rate of tax was applicable only to sale of goods made to Government Departments and Indian Railways, the levy of tax at such rate on the sales made to IRCTC was not in order. This resulted in short levy of tax of ₹ 7.79 lakh.

³⁷ Amaindakarai, Anna Salai-II, Brough Road, Egmore-II, Kilpauk, LTU-II, Saidapet, Tirupattur and Velacherry

³⁸ Anna Salai-II, Brough Road and Egmore-II

After Audit pointed this out, the AA revised the assessments (May 2014) and raised additional demand of ₹ 7.79 lakh. Report regarding collection particulars was awaited (November 2014).

Audit reported the matter to the Government in April 2014. Reply of the Government was awaited (November 2014).

2.7.1.4 According to Section 3(2) of TNVAT Act, in the case of goods specified in Part B or Part C of the First Schedule, the tax shall be payable by a dealer on every sale made by him within the State at the rate specified therein.

DVDs and CDs were taxable at the rate of four *per cent* under entry 68 of Part-B of the First Schedule upto 11 July 2011 and at the rate of 14.5 *per cent* as per entry No 13A of Part C of First Schedule thereafter.

Test check of records in Nandanam assessment circle (December 2013) revealed that a dealer engaged in sale of DVDs/CDs paid tax at five *per cent* on the sales turnover of ₹ 59.46 lakh instead of adopting the correct rate of 14.5 *per cent* during the period from 12 July 2011 to 31 March 2012. The AA failed to ensure the payment of tax at correct rates while scrutinising the monthly returns filed by the dealer. This resulted in short realisation of tax of ₹ 5.65 lakh.

Audit reported the matter to the Department (November 2013) and to the Government (April 2014). Reply was awaited (November 2014).

2.7.2 Escapement of taxable turnover

According to Section 27(1)(a) of the TNVAT Act, where for any reason, the whole or any part of the turnover of business of a dealer has escaped assessment to tax, the AA may determine the turnover which has escaped assessment and assess the tax payable on such turnover after making such enquiry as it may consider necessary.

Section 27(3) of the TNVAT Act provides for levy of penalty at the rate of 150 *per cent* of the tax due on the assessable turnover that was wilfully not disclosed, if the tax on such turnover is more than 50 *per cent* of tax paid as per the return.

As per entry 29 of Part C of the First Schedule to the Act, *ibid*, electrical storage batteries were taxable at 12.5 *per cent* upto 11 July 2011. Industrial inputs for use in manufacture inside the State were taxable at four *per cent* as per entry 67 of Part B of the First Schedule on the strength of certificates furnished by the purchasing dealer.

During test check of records in Anna Salai-I assessment circle (February 2013), Audit noticed that a dealer reported sales turnover of batteries valued at ₹ 1.50 crore for the year 2007-08 and paid tax at the rate of four *per cent* on the strength of certificate filed by the purchasing dealer of Velandipalayam assessment circle. Audit cross verified the purchase details available in intranet of the Department, which indicated total purchases of the buyer as ₹ 30.18 lakh during the year.

After Audit pointed this out, the AA, Anna Salai I assessment circle issued cross check reference to the AA of the purchasing dealer in June 2013. Based

on the reference, the AA, Velandipalayam assessment circle determined the suppressed turnover as ₹ 1.30 crore and passed assessment order in January 2014 by levying tax and penalty of ₹ 16.20 lakh and ₹ 24.31 lakh respectively. Further report regarding collection of the demand was awaited (November 2014).

Audit reported the matter to the Government (June 2013) and reply was awaited (November 2014).

2.7.3 Incorrect allowance of compounded rate of tax

Section 3(2) of the TNVAT Act provides that in the case of goods specified in Part B or Part C of the First Schedule, the tax shall be payable by a dealer on every sale made by him within the State at the rate specified therein.

Section 3(4)(a) of the TNVAT Act read with Notification dated 1 January 2007 provides that notwithstanding anything contained in sub-Section (2), every dealer who effects second and subsequent sales of goods purchased within the State and whose turnover relating to taxable goods for a year is less than ₹ 50 lakh, may at his option pay a tax at the rate of 0.5 *per cent*.

As per Section 3(4)(b) of the TNVAT Act, if the taxable turnover of the dealer in a year reaches ₹ 50 lakh at any time during the year, he is liable to pay tax under Section 3(2) of the Act on all his sales turnover.

2.7.3.1 Scrutiny of monthly returns filed by four dealers of four assessment circles³⁹ (between October 2013 and January 2014) revealed payment of tax at compounded rate of 0.5 *per cent* by the dealers though the turnover relating to sale of taxable goods effected by them during the year exceeded ₹ 50 lakh. Audit further noticed that three dealers paid tax at compounded rate on their turnover of ₹ 182.13 lakh even after they exceeded the threshold limit of ₹ 50 lakh. Another dealer paid tax at compounded rate on the turnover of ₹ 48.01 lakh and at scheduled rate on remaining turnover of ₹ 45.33 lakh. Though the dealers paid tax at compounded rate, despite their turnover exceeding the threshold limit, the AAs failed to ensure the payment of tax at correct rates while scrutinising the monthly returns. Thus, there was short payment of tax of ₹ 23.96 lakh due to incorrect adoption of compounding rate of tax for the period from 2008-09 to 2011-12.

Audit reported the matter to the Department (between October 2013 and January 2014) and to the Government (April 2014). Reply was awaited (November 2014).

2.7.3.2 Test check of records in four assessment circles⁴⁰ (between April 2013 and January 2014) revealed that four dealers sold goods like timber, ceramic tiles, hardware items, roofing sheets, fireworks, etc. for ₹ 2.88 crore during the years 2008-09 to 2011-12 and paid tax of ₹ 1.45 lakh at compounded rate of 0.5 *per cent* on the sales turnover. Scrutiny of the Check Post module of the Department's intranet revealed that these dealers had effected inter-State purchases/sales of goods. In terms of Section 3(4)(a),

³⁹ Dindigul-V, Melur, Tiruppur (Rural) and Tiruvarur

⁴⁰ Ariyalur, Sivakasi-I, Tiruppur (Rural) and Thuckalay

dealers engaged in inter-State transactions were not eligible for payment of tax at compounded rate. The tax payable, at the rates of 12.5 *per cent* upto 11 July 2011 and at 14.5 *per cent* thereafter, works out to ₹ 37.01 lakh. However, the dealers paid tax of ₹ 1.45 lakh only, which resulted in short payment of tax of ₹ 35.56 lakh. The AAs failed to rectify the mistake while passing assessment orders/scrutinising the monthly returns.

After Audit pointed this out (between April 2013 and January 2014), the AA, Ariyalur assessment circle revised the assessment (June 2013) and raised demand of ₹ 1.61 lakh. Collection particulars of the above demand and reply in respect of other cases were awaited (November 2014).

Audit reported the matter to the Government in April 2014. The Government accepted (August 2014) the audit observation in respect of a case pertaining to Ariyalur assessment circle. Reply in respect of other three cases was awaited (November 2014).

2.7.4 Incorrect computation of taxable turnover

According to Section 5 of the TNVAT Act, every dealer shall pay a tax on his taxable turnover relating to his business of transfer of property in goods involved in the execution of works contract, either in the same form or some other form, at such rates as specified in the First Schedule.

As per entry 18 of Part B of the First Schedule to the TNVAT Act, bitumen was taxable at four *per cent* upto 11 July 2011.

Test check of records in Palayamkottai assessment circle (March 2013) revealed that a dealer declared taxable turnover of ₹ 2.12 crore, relating to transfer of goods involved, in the execution of works contracts for the years 2006-07 and 2007-08. However, Audit noticed, from the Profit and Loss account of the dealer available in the assessment file, that the dealer purchased bitumen also; but omitted to include the corresponding deemed sale value amounting to ₹ 1.50 crore. This resulted in short payment of tax of ₹ 6.01 lakh.

After Audit pointed this out (March 2013), the AA revised the assessment (August 2013) and raised additional demand of ₹ 6.01 lakh. Collection particulars of the additional demand were awaited (November 2014).

After Audit reported the matter (November 2013), the Government accepted the audit observation (May 2014).

2.7.5 Incorrect claim of input tax credit

Section 19(2) of the TNVAT Act provides that ITC shall be allowed for the purchase of goods made within the State from a registered dealer and which are for the purpose of use as inputs in manufacturing or processing of goods in the State or use as capital goods in the manufacture of taxable goods.

As per Section 27(2) of the TNVAT Act, where for any reason, the ITC has been availed wrongly, the assessing authority shall reverse the ITC availed. Section 27(4) of the Act, *ibid*, provides for levy of penalty, at the first instance, at the rate of 50 *per cent* of the ITC wrongly claimed.

2.7.5.1 As per Section 2(11) of the TNVAT Act, capital goods means plant, machinery, etc. used in the State for the purpose of manufacture.

Test check of assessment records in six assessment circles⁴¹ (between January 2013 and January 2014) revealed that seven dealers purchased fire fighting equipment, cement, mobile concrete pumps, weighing machines, motor vehicles, rolling shutters, computers, ceramic goods, diesel generators, etc. and claimed ITC of ₹ 1.11 crore thereon during different periods between 2008-09 and 2011-12. Since these goods are neither capital goods nor used as raw material in manufacture, the dealers were not eligible to claim ITC on these purchases. Thus, ITC of ₹ 1.11 crore should have been reversed and penalty of ₹ 55.53 lakh should have been levied. However, the AAs failed to reverse the ITC and levy the penalty, while scrutinising the monthly returns.

After Audit pointed this out (between January 2013 and February 2014), the AA, Royapettah-I assessment circle revised the assessment (May 2013) and collected ₹ 11.71 lakh. Reply in respect of the other six cases was awaited (November 2014).

Audit reported the matter to the Government (between April 2013 and May 2014). The Government accepted (May 2014) the audit observation in respect of the case pertaining to Royapettah-I assessment circle. Reply in respect of other six cases was awaited (November 2014).

2.7.5.2 During scrutiny of monthly returns filed by the assessee in Saidapet assessment circle (March 2013), Audit noticed that a dealer purchased goods from a dealer in Punjab for ₹ 3.18 crore and claimed ITC of ₹ 16.68 lakh in the monthly returns during the period between August 2010 and March 2011. As inter-State purchases are not eligible for ITC, the claim of ₹ 16.68 lakh was required to be reversed and penalty of ₹ 8.34 lakh should have been levied. However, the AA failed to notice the incorrect claim while conducting scrutiny of returns.

After Audit pointed this out (March 2013), the AA revised the assessment (July 2013) and raised demand of ₹ 16.68 lakh. Reply, on collection particulars and levy of penalty, was awaited (November 2014).

Audit reported the matter to the Government in April 2013. Reply of the Government was awaited (November 2014).

2.7.5.3 During test check of assessment records of the assessee in Annasalai-II assessment circle (September 2013), Audit noticed that a dealer reported in his monthly return (Form-I), for the month of March 2012, purchase of computer hardware for ₹ 1.02 crore from another dealer of Mylapore assessment circle and claimed ITC of ₹ 12.71 lakh. Further cross verification of monthly returns filed by the selling dealer revealed that the sale effected by this selling dealer to the assessee was only ₹ 28.21 lakh involving tax of ₹ 4.09 lakh. Thus, the assessee incorrectly claimed ITC of ₹ 8.62 lakh; which was required to be reversed. Penalty of ₹ 4.31 lakh was also leviable. The AA, however, failed to ensure the correctness of the claim of ITC during scrutiny of monthly returns.

⁴¹

Ambasamudram, LTU-III, Manali, Melur, Royapettah-I and Tiruppur Rural

After Audit pointed this out (September 2013), the AA revised the assessment (June 2014) and raised additional demand of ₹ 12.93 lakh; out of which ₹ 12.62 lakh was collected. Report regarding collection of the balance amount was awaited (November 2014).

Audit reported the matter to the Government (June 2014) and reply was awaited (November 2014).

2.7.5.4 During test check of monthly returns filed by the assesseees of Chengalpet and Villivakkam assessment circles (May 2012 and December 2013), Audit noticed that two purchasing dealers reported in monthly returns (March 2012) purchase of coffee, mineral water and textiles valued at ₹ 11.69 crore from a selling dealer pertaining to Karur (East) assessment circle and claimed ITC of ₹ 84.16 lakh. Cross verification of returns filed by the selling dealer revealed that the seller had declared 'Nil' turnover in the annual return in Form I-1 for the year 2011-12. As no sales were reported by the seller during the period of March 2012, the assesseees were not eligible for claiming ITC. Thus, ITC of ₹ 84.16 lakh was reversible. Besides, penalty of ₹ 42.08 lakh was also leviable. The AA, however, failed to ensure the correctness of claim of ITC during scrutiny of monthly returns.

Audit reported the matter to the Department (May 2012 and December 2013) and to the Government in May 2014; their reply was awaited (November 2014).

2.7.5.5 Scrutiny of records in Lakshmi Nagar assessment circle (February 2013) revealed that two assesseees reported, in their monthly returns for the months of January to March 2011, purchase of industrial inputs valued at ₹ 1.02 crore and claimed ITC of ₹ 4.07 lakh. Audit further noticed that the selling dealers had not reported any sale in the monthly returns of the corresponding period. The AA, however, failed to ensure the correctness of the claim of ITC during finalisation of assessment/scrutiny of monthly returns. The incorrect claim of ITC of ₹ 4.07 lakh was required to be recovered along with penalty of ₹ 2.04 lakh.

After Audit pointed this out (February 2013), the AA revised the assessments (October 2013) and raised demand of ₹ 5.24 lakh, which was also collected. Report regarding levy and collection of penalty of ₹ 0.86 lakh in one case was awaited (November 2014).

Audit reported the matter to the Government (November 2013) and reply was awaited (November 2014).

2.7.5.6 According to Section 19(11) of the Act, *ibid*, a dealer shall make the claim of ITC, in respect of any transaction of taxable purchase in any month, before the end of the financial year or before 90 days from the date of purchase, whichever is later.

Test check of records in three assessment circles⁴² (between May and September 2013) revealed that three dealers claimed ITC of ₹ 9.71 lakh in the monthly returns for the months of April, June and November 2011 in respect of

⁴² Harbour-V, T Nagar (East) and Valluvarkottam

purchases made during different period between May 2010 and January 2011. Since the dealers claimed ITC beyond the stipulated period, their claim of ITC was not in order. The AAs, however, failed to disallow the time barred claim of ITC of the dealers. This resulted in irregular claim of ITC of ₹ 9.71 lakh.

After Audit pointed this out, the Department reversed the ITC of ₹ 3.30 lakh in one case pertaining to T. Nagar (East) assessment circle. Reply in respect of remaining two cases was awaited (November 2014).

Audit reported the matter to the Government (between January and April 2014) and reply was awaited (November 2014).

2.7.5.7 Under Section 2(24) of the TNVAT Act, 'input tax' means the tax paid or payable under the Act by a registered dealer to another registered dealer on the purchase of goods in the course of his business.

Audit analysis (between April 2013 and January 2014) of the dump data obtained from the CTD revealed that 29 dealers of 18 assessment circles⁴³ purchased goods worth ₹ 40.05 crore and claimed ITC of ₹ 2.61 crore in their monthly returns for different periods between July 2010 and March 2012. Audit, however, observed that the RCs of the selling dealers were cancelled prior to the transaction of sale/purchase. Thus, at the time of purchase made by the assesseees, the selling dealers were not registered under the Act and the claim of ITC by the buying dealers was not in order. The AAs, however, failed to ascertain the genuineness of the ITC claim of these dealers, while scrutinising the monthly returns.

Audit pointed this out to the Department (between April 2013 and January 2014) and to the Government (May and July 2014). Their reply was awaited (November 2014).

2.7.5.8 According to Rule 7(7) of TNVAT Rules, every registered dealer, who is not liable to pay tax under the Act, shall file return for each year in Form I-1 on or before the 20th day of May of the succeeding year showing the actual total turnover in respect of all goods dealt with by him.

Audit analysis (between June 2013 and January 2014) of the data obtained from the CTD revealed that 23 dealers of 14 assessment circles⁴⁴ purchased goods for ₹ 12.39 crore from various dealers, who filed annual returns in Form I-1, and claimed ITC of ₹ 78.36 lakh in the monthly returns for different periods between February 2011 and March 2012. As the dealers who filed annual returns in Form I-1 did not have tax liability, the claim of ITC by the assesseees was not in order. The AAs, however, failed to ascertain the genuineness of the ITC claim of these dealers while scrutinising their monthly returns.

⁴³ Adyar-II, Chengalpet, Ganapathy, Harbour-II, Harbour-V, Korattur, Koyambedu, Krishnagiri, Mylapore, Royapettah-I, Saligramam, Tiruchengode, Thiruverumbur, Tiruvottiyur, Triplicane-II, Vadapalani-I, Vadapalani-II and Valluvarkottam

⁴⁴ Adyar-I, Egmore-II, Guindy, Harbour-II, Koyambedu, Manali, Mandaveli, Nandanam, P.N.Palayam, Podanur, Saligramam, Singanallur, T.Nagar (East) and Villiwakkam.

Audit pointed this out to the Department (between June 2013 and January 2014), and to the Government (July 2014). Their reply was awaited (November 2014).

2.7.6 Non-reversal of input tax credit

2.7.6.1 According to Section 19(4) of the TNVAT Act, ITC shall be allowed on the tax paid or payable on the purchase of goods in excess of three *per cent* of tax relating to such purchases, if the goods purchased were transferred either in the same form or used in the manufacture of other goods and transferred to other States otherwise than by way of sale. Provided, that if a dealer had already availed ITC, there shall be reversal of credit against such transfer.

Audit noticed (between February 2013 and August 2013) during test check of monthly returns that 14 dealers of 10 assessment circles⁴⁵, who claimed ITC of ₹ 29.93 crore on purchases of goods during different periods between 2007-08 and 2011-12, had transferred goods valued at ₹ 408.52 crore to other States otherwise than by way of sale. Audit, however, observed that the dealers did not reverse proportionate ITC applicable to such transfer of goods to other States, in the monthly returns filed by them. The AAs also failed to reverse the ITC during scrutiny of returns.

After Audit pointed this out, the AAs reversed between April 2013 and March 2014, ITC of ₹ 3.15 crore and collected ₹ 31.83 lakh in five cases pertaining to five assessment circles⁴⁶. Reply regarding collection particulars of balance amount of ₹ 2.83 crore was awaited in respect of other nine cases (November 2014).

Audit communicated the omission (April 2013 and June 2014) to the Government and reply was awaited (November 2014).

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

During test check of monthly returns filed by 36 assesseees pertaining to 11 assessment circles⁴⁷ (between March 2013 and December 2013), Audit noticed that the dealers claimed ITC of ₹ 17.16 crore on purchase of various goods, viz., medical implants, transformer, engines, timber, electronic goods, hosiery goods, leather goods, etc. during different periods between 2007-08 and 2011-12. Audit further observed that they had made inter-State sale of goods amounting to ₹ 187.40 crore, which were not covered by declarations in Form 'C'. Though such sale warrants reversal of ITC of ₹ 1.75 crore, the assesseees did not reverse or made short-reversal and the AAs also failed to reverse the proportionate ITC.

⁴⁵ Adyar-II, Anna Salai-III, Chengalpet, Karur (South), Mettupalayam Road, Mylapore, Palayamkottai, Shenkottah, Suramangalam and Vepery.

⁴⁶ Chengalpet, Karur (South), Mettupalayam Road, Palayamkottai and Shenkottah

⁴⁷ Adyar-II, Amaidakalai. Avadi, Chepauk. Choolai, Korattur, Mylapore, Shenkottah, Tiruppur Bazaar, Tiruppur Rural and Vaniyambadi

After Audit pointed this out, the AAs reversed (between March 2013 and April 2014) ITC of ₹ 1.75 crore and collected ₹ 21.25 lakh in six cases pertaining to three assessment circles⁴⁸. Reply regarding collection particulars of the balance amount of ₹ 1.53 crore was awaited in respect of other 30 cases pertaining to seven assessment circles (November 2014).

Audit communicated the omission to the Government (between December 2013 and January 2014). The Government accepted (August 2014) the audit observation in respect of two cases relating to Shenkottah assessment circle. Reply in respect of other 34 assesseees, pertaining to nine assessment circles⁴⁹, was awaited (November 2014).

2.7.7 Non-levy of interest

According to Section 42(3) of the TNVAT Act, on any amount remaining unpaid after the date specified for its payment, the dealer shall pay interest at one and a quarter *per cent* per month of such amount of the entire period of default.

As per Rule 7(1) of the TNVAT Rules, every registered dealer, except certain class of dealers, shall file return for each month on or before 20th of the succeeding month to the assessing authority and the return shall be accompanied by proof of payment of tax.

According to the proviso to Rule 7(1)(b) of the Rules, *ibid*, a registered dealer, whose taxable turnover in the preceding year is ₹ 200 crore and above, shall pay tax on or before 12th of the succeeding month.

In terms of Rule 5(1) of the Central Sales Tax (Tamil Nadu) Rules, 1957, the provisions of the TNVAT Act and Rules made thereunder shall apply *mutatis mutandis* for the purpose of submission of returns.

During scrutiny of assessment records, *viz.* monthly returns, VAT register, Form-V register, cheque register, etc. in five assessment circles⁵⁰ (between March and November 2013), Audit noticed that five dealers paid tax of ₹ 28.81 crore belatedly. The delays ranged from three days to one year and seventeen days. Though the belated payment of tax warranted levy of interest amounting to ₹ 22.90 lakh, the AAs failed to collect the same.

After Audit pointed this out (between March and November 2013), the AAs of four assessment circles⁵¹ accepted the audit observation and collected interest of ₹ 17.54 lakh. Reply in respect of Ashoknagar assessment circle was awaited (November 2014).

Audit reported the matter to the Government between December 2013 and June 2014. The Government accepted (May and August 2014) the audit observation in respect of two cases pertaining to Rajapalayam and T.Nagar (East)

⁴⁸ Amaindakarai, Korattur and Tiruppur Bazaar

⁴⁹ Adyar-II, Amaindakarai, Avadi, Chepauk, Choolai, Mylapore, Tiruppur Bazaar, Tiruppur Rural and Vaniyambadi

⁵⁰ Ashok Nagar, Hosur (North), Ice House, Rajapalayam-I and T.Nagar (East)

⁵¹ Hosur (North), Ice House, Rajapalayam-I and T.Nagar (East)

assessment circles. Reply in respect of other three cases was awaited (November 2014).

Sales Tax

2.7.8 Application of incorrect rate of tax

2.7.8.1 According to Section 8(2) of the CST Act, inter-State sale of goods not covered by valid declarations in Form 'C' is assessable to tax at the local rate applicable to sale of such goods inside the State.

According to entry 25 of Part B of First Schedule to the TNVAT Act, capital goods as defined in Section 2(11) of Act *ibid* were taxable at the rates of four *per cent* upto 11 July 2011 and at five *per cent* thereafter. Any other goods not specified elsewhere in any of the Schedules were taxable at the rates of 12.5 *per cent* upto 11 July 2011 and at 14.5 *per cent* thereafter. Section 2(11) of the TNVAT Act defines capital goods as plant, machinery, etc. used in the State for the purpose of manufacture. According to entry 67 of Part B of First Schedule to the TNVAT Act, any goods falling under Part C of the First Schedule, when sold as industrial inputs for manufacture inside the State, were taxable at the rate of four *per cent*.

During test check of records in 11 assessment circles⁵², Audit noticed that 18 dealers sold capital goods and industrial inputs outside the State for ₹ 47.59 crore during the years 2007-08 to 2011-12 and paid tax of ₹ 1.93 crore at the rate of four *per cent* as applicable to the sale of such goods for use within the State. As inter-State sales of capital goods/industrial inputs do not satisfy the condition "used in the State for the purpose of manufacture" and also they were not supported by declarations in Form 'C', the sales were taxable at the rate of 12.5 *per cent* upto 11 July 2011 and 14.5 *per cent* thereafter in terms of Section 8(2) of the CST Act. The AAs, while finalising the assessments (between July 2010 and March 2013), failed to adopt the correct rate of tax which resulted in short levy of tax of ₹ 4.07 crore.

After Audit pointed this out (between October 2012 and December 2013), the AAs of three assessment circles⁵³, after considering the subsequent filing of declaration forms by the dealers, revised the assessments of three dealers between March 2013 and January 2014 and raised a demand of ₹ 2.56 crore (as against ₹ 3.14 crore suggested in audit); the collection particulars of which were awaited (November 2014). The AA, Manali stated that the dealer had gone on appeal against the revision of assessment; the outcome of which was awaited (November 2014). The AAs of three other assessment circles⁵⁴, however, did not accept the audit observation in respect of seven cases and stated that as per the clarification issued by the CCT in July 2007, inter-State sale of machinery not covered by Form 'C' declarations was liable to tax at four *per cent*. The reply is not tenable as the clarification of CCT was not in consonance with the definition of capital goods provided in the TNVAT Act,

⁵² Chintadripet, Egmore-I, Manali, MTP Road, Podanur, Pudukottai, Royapuram, Tiruparankundram, Tiruvanmiyur, Tuticorin-II and Washermanpet-II

⁵³ Chintadripet, Manali and Tiruparankundram

⁵⁴ Podanur, Tiruvanmiyur and Tuticorin-II

according to which the machinery 'used in the State for the purpose of manufacture' alone can be classified as capital goods. Reply of the AAs in the remaining eight cases was awaited (November 2014).

Audit reported the matter to the Government between March 2013 and March 2014. Government accepted (September 2013) the audit observation in respect of a case pertaining to Chintadripet assessment circle. Reply of the Government in respect of remaining 17 cases, pertaining to 10 assessment circles⁵⁵, was awaited (November 2014).

2.7.8.2 According to Section 3(2) of the TNGST Act, in the case of goods mentioned in the First Schedule, the tax under this Act shall be payable by a dealer at the rate and at the point specified therein on the turnover in each year relating to such goods. Under entry 5 of Part D to First Schedule of the Act, *ibid*, sale of biscuits sold with a brand name registered under the Trade and Merchandise Marks Act, 1958 (T&MM Act) were taxable at the rate of 12 *per cent*.

As per Section 3-I of the TNGST Act, surcharge at the rate of five *per cent* shall be levied on the tax levied under Section 3(2) of the Act at the first point of sales.

The Government, vide Notification issued in March 2002⁵⁶, reduced the rate of tax to four *per cent* on sale of any goods, which are taxable at a rate higher than four *per cent* except petrol diesel and cement, to State and Central Government Departments including Railways.

Test check of assessment files in LTU-III, Chennai (March 2013 and January 2014) revealed that a dealer sold branded biscuits and cakes, amounting to ₹ 228.56 lakh to IRCTC during the period from April 2003 to December 2006 and tax was levied at the rate of four *per cent* on such sales turnover. As the concessional rate of tax was applicable only to sale of goods made to Government Departments and Indian Railways, the levy of tax at reduced rate on the sales made to IRCTC was not in order. Tax leviable at the rate of 12 *per cent* worked out to ₹ 28.90 lakh, including surcharge of five *per cent* thereon. However, the AA failed to levy tax at correct rate, which resulted in short-levy of tax of ₹ 19.20 lakh, inclusive of surcharge.

After Audit pointed this out, the AA revised the assessment in May 2014 and raised additional demand; the collection particulars of which were awaited (November 2014).

Audit reported the matter to the Government in April 2014. Reply of the Government was awaited (November 2014).

⁵⁵ Egmore-I, Manali, MTP Road, Podanur, Pudukottai, Royapuram, Tiruparankundram, Tiruvanmiyur, Tuticorin-II and Washermanpet-II

⁵⁶ Notification No.II(1)/CTR/19(b-10)/2002, dated 27 March 2002

2.7.9 Incorrect computation of taxable turnover

Ready-mix concrete (RMC) was taxable at the rate of 12 *per cent* at the point of first sale in the State under entry 31 of Part D to the First Schedule of the TNGST Act. In addition, surcharge at the rate of five *per cent* on tax and additional sales tax at the rate of two and half *per cent* on the taxable turnover, where the taxable turnover for the year was in excess of ₹ 100 crore but below ₹ 300 crore, was also leviable.

Explanation 2 (ii) under Section 2(r) of the TNGST Act provides that the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of, or before the delivery thereof.

The CCT clarified (March 2011) that any expenses incurred by the seller till the delivery of goods at the purchaser's site are to be included for the purpose of arriving at taxable turnover.

Audit noticed during test check assessment files in LTU-II, Chennai assessment circle (December 2013) that an assessee, a manufacturer of RMC claimed deduction towards freight and unloading charges in respect of sale of RMC effected by him during the years 2004-05 to 2006-07. The AA, while finalising the assessment of the dealer between April 2012 and September 2012 determined the sales turnover as ₹ 667.49 crore and allowed the above claim of exemption on the ground that these charges were mentioned separately in the sale invoices and therefore they do not form part of taxable turnover. However, RMC, by its intrinsic nature requires transportation in specially designed vehicle and the sale gets completed only when the goods are delivered at the work site of the customers. Thus, charges received till the conclusion of sale shall be treated as forming part of sales turnover and added to the sale price. The assessee had been assessed to tax on the taxable turnover of ₹ 667.49 crore during the years 2004-05 to 2006-07 involving tax of ₹ 54.08 crore. The freight and unloading charges received by the assessee towards transportation of RMC during the years were ₹ 43.73 crore. The non-inclusion of these charges to the sale price resulted in incorrect computation of taxable turnover and consequent short levy of tax of ₹ 6.37 crore.

After Audit pointed this out (December 2013), the AA contended that-

- the contract was only for supply of RMC at ex-factory. The expenses incurred on transportation and unloading were reimbursed by the clients. As the sale got concluded at the time of crossing the factory itself, any expenses for transporting and delivering the goods, charged separately and paid by the buyer, cannot be construed as part of turnover.
- Hon'ble Supreme Court of India held⁵⁷ that the freight charges, which were collected separately by the petitioner in his capacity as carrier of goods, cannot be included in the sales turnover.

⁵⁷

State of Karnataka vs. Bangalore Soft Drinks (P) Ltd. – 117 STC 413 (SC)

- the Tamil Nadu Sales Tax Appellate Tribunal (Main Bench), Chennai, held⁵⁸ (February 2010) that freight is post sale expense and pumping charges represent labour charges and therefore not includible in the sale price.

The reply of the Department is not acceptable for the following reasons:

- As mentioned earlier, sale of RMC gets concluded only when the goods are delivered at the work site of the customers and all charges received till the conclusion of sale form part of sales turnover. Explanation 2 (ii) under Section 2(r) of the TNGST Act provides that the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of, or before the delivery thereof.
- The characteristics of the case dealt with by Hon'ble Supreme Court, referred to in the reply, viz. nature of commodity, method of claim of delivery charges, *situs* of sale etc. are entirely different from the assessee's transactions. Therefore, the judgment is not applicable to assessee's case.
- The order of the Tamil Nadu Sales Tax Appellate Tribunal was delivered with reference to the provisions under the Central Sales Tax Act and it cannot be extended to the local sales covered by the TNGST Act.
- Hon'ble High Court of Karnataka in the case of ACC Limited Vs. State of Karnataka reported in 52 VST 129 has held that charges for pumping to point of use in respect of sale of RMC are includible in turnover.

Audit reported the matter to the Government in April 2014. Reply of the Government was awaited (November 2014).

⁵⁸

TNSTAT (Main Bench) Chennai STA No.28/2009 dated 5.2.2010

CHAPTER III
STAMP DUTY AND REGISTRATION FEES

CHAPTER III

STAMP DUTY AND REGISTRATION FEES

3.1 Tax administration

Receipts from stamp duty and registration fee are regulated under the Indian Stamp Act 1899, (IS Act), Indian Registration Act, 1908 (IR Act) and the rules framed there-under as applicable in Tamil Nadu and are administered at the Government level by the Principal Secretary (Commercial Taxes and Registration Department). The Inspector General of Registration (IGR) is the head of the Registration Department who is empowered with the task of superintendence and administration of registration work. He is assisted by the Deputy Inspector General of Registration and District Registrars (DRs) acting as the Registrars and Sub-Registrars (SR) respectively.

3.2 Internal Audit

Internal audit is a vital component of internal controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well. The Department has a system of internal audit to ensure *cent per cent* audit of all the documents registered. There are 45 audit units, each headed by a District Registrar (Audit) and assisted by an Assistant, Junior Assistant and a Typist. The periodicity of audit of all offices is on monthly basis. The details of the number of offices due for internal audit and those completed, as furnished by the Department are detailed in the **Table: 3.1.**

Table: 3.1

Year	Number of audits due	Number of audits completed	Balance	Percentage of col.3 to 2
1	2	3	4	5
2009-10	1,005	879	126	87.46
2010-11	991	563	428	56.81
2011-12	935	624	311	66.74
2012-13	1,021	613	408	60.04
2013-14	1,311	831	480	57.76

The above table indicates an increasing trend in the number of offices in respect of which internal audit was in arrears. The Department attributed the reasons for arrears in audit to vacancy of Audit Registrars and stated that a special team has been formed to clear the backlog.

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

Year-wise details of the number of objections raised, settled and pending, along with tax effect as furnished by the Department, are detailed in Table: 3.2.

Table: 3.2

Year	Observations raised		Observations settled		Observations pending	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
Upto 2009-10	35,935	110.31	27,186	29.45	8,749	80.86
2010-11	5,127	42.44	3,330	37.83	1,797	4.61
2011-12	6,492	5.83	4,109	1.42	2,383	4.41
2012-13	9,509	26.44	5,511	4.47	3,998	21.97
2013-14	11,724	30.47	4,047	20.70	7,677	9.77

As at the end of 31 March 2014, 24,604 paragraphs involving money value of ₹ 121.62 crore were outstanding as detailed in **Table 3.3**.

Table 3.3

As at the end of	Number of paragraphs pending	Amount involved (₹ in crore)
31 March 2012	19,107	150.38
31 March 2013	22,655	124.55
31 March 2014	24,604	121.62

The above table indicates that large number of paragraphs remained outstanding as on 31 March 2014. It is suggested that action may be taken for speedy clearance of old outstanding objections.

3.3 Results of audit

In 2013-14, test check of the records of 164 offices of the Registration Department showed non/short-levy of stamp duty and registration fee etc. and other irregularities amounting to ₹ 59.05 crore in 626 cases, which fall under the categories given in **Table: 3.4**.

Table: 3.4

(₹ in crore)

Sl.No.	Categories	Number of cases	Amount
1.	Under valuation of property	169	12.04
2.	Misclassification of instruments	165	8.32
3.	Other irregularities	292	38.69
	Total	626	59.05

During the course of the year, the Department accepted under assessments and other deficiencies in 81 cases and recovered ₹ 75.62 lakh out of which ₹ 3.03 lakh involved in 11 cases were pointed out during the year and the rest in earlier years. Few illustrative cases involving ₹ 14.25 crore are discussed in the following paragraphs.

3.4 Other Audit Observations

3.4.1 Incorrect exemption to Co-operative Societies

3.4.1.1 By a Notification dated 29 June 1966 issued under Section 43(1) of the Tamil Nadu Co-operative Societies Act, 1961, remission of stamp duty was granted (subject to certain conditions) in respect of instruments executed by or in favour of a registered co-operative society in relation to the business of such society. As per Section 2(22) of the Tamil Nadu Co-operative Societies Act, 1983, registered society means a society registered or deemed to be registered under that Act. As per Section 183(3) of the Act *ibid*, notification issued under the Tamil Nadu Co-operative Societies Act, 1961 shall continue to have effect under the Act. The Government clarified in October 2013 that the Notification granting exemption from stamp duty is not applicable to the Co-operative Societies registered under the Multi State Co-operative Societies Act, 2002.

During test check of documents in eight⁵⁹ Sub-Registries (SRs), Audit noticed (between April 2012 and January 2014) that four co-operative societies which were registered under the Multi State Co-operative Societies Act had conveyed to its members or *vice versa*, through 1,055 documents of sale registered between April 2009 and March 2013, house sites valued at ₹ 103.13 crore as set forth in the documents and the same were granted exemption by the registering officer (RO). As the Notification is applicable to societies registered under the Tamil Nadu Co-operative Societies Act only, exemption granted to societies registered under the Multi-State Co-operative Societies Act was not in order. However, the RO failed to collect the stamp duty. This resulted in non-realisation of stamp duty of ₹ 7.59 crore.

After Audit pointed this out (between December 2013 and April 2014), the Government, in respect of three SRs⁶⁰, replied (February and April 2014) that the DRs were directed to initiate action to recover deficit stamp duty under section 33A of the IS Act. Further report regarding recovery of stamp duty and reply in respect of the remaining five SRs was awaited (November 2014).

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

Audit noticed during test check of the documents in SR, Guduvancherry (January 2014) that through an instrument of sale executed and registered in August 2008, developed/approved layouts measuring 2,49,885 square feet (sqft) were conveyed by a company registered under the Companies Act 1956, represented by its representative, in favour of Co-operative Housing Society for ₹ 12.09 crore. The vendor company, however, was not a member of the

⁵⁹ Madhavaram, Manavalanagar, Mettupalayam, Sembium, Sriperumbudur, Tiruvallore, Thiruvottiyur and Villivakkam

⁶⁰ Mettupalayam, Thiruvottiyur and Villivakkam

society and only the representative representing the company was a member of the said society. As such, no exemption was allowable in respect of the sale instrument executed by a non-member, in favour of the Co-operative Society. However, the RO failed to notice that the transaction was not between the Society and its member and erroneously allowed remission of stamp duty of ₹ 96.76 lakh.

After Audit reported the matter to the Government (April 2014), the Government accepted the audit observation and stated (July 2014) that the concerned DR had been directed to initiate action to recover the stamp duty. Further report was awaited (November 2014).

3.4.2 Misclassification of instruments

As per the provisions of Article 58 of Schedule I to the IS Act, in respect of an instrument of settlement in favour of a member or members of a family, stamp duty is leviable at the rate of one *per cent* of the market value of the property which is under settlement subject to the maximum of ₹ 10,000. In any other case, stamp duty is leviable at the rate of eight *per cent* of the market value of the property which is under settlement. As per the Explanation under Article 58, family means father, mother, husband, wife, son, daughter and grandchild.

3.4.2.1 During test check of records in SR, Kodambakkam (November 2013), Audit noticed that a settlement deed was executed and registered in May 2012 by a Company registered under the Indian Companies Act, 1956 and represented by its Managing Director through which 1,023 sqft of undivided share of land with building was settled in favour of an individual, being a family member of the Managing Director as defined in Explanation under Article 58 of Schedule I to IS Act. The RO, while registering the document erroneously treated the same as settlement between family members and collected stamp duty and registration fees of ₹ 0.12 lakh. Since the property was purchased and owned by the company, treatment of the deed as one in favour of family member was not in order. Accordingly, stamp duty and registration fees aggregating ₹ 5.98 lakh was required to be levied on the applicable guideline value of the property of ₹ 66.50 lakh (excluding the value of the building which had to be ascertained by the Department). Thus, there was a short collection of stamp duty and registration fees to an extent of ₹ 5.86 lakh.

After Audit pointed this out to the Department (December 2013) and to the Government (January 2014), the Department collected stamp duty and registration fees of ₹ 5.86 lakh (November 2014). Report regarding valuation of building and collection of stamp duty and registration fees thereon was awaited (November 2014).

3.4.2.2 Audit noticed during scrutiny of records in SR, Madhavaram (January 2014) that a partnership firm registered under the Indian Partnership Act, 1932 and represented by its partners settled its property in favour of a family member of the partners, as defined in Explanation under Article 58 of Schedule I to IS Act through a settlement deed executed and registered in December 2012 and the deed was classified as settlement in favour of family member and stamp duty and registration fees of ₹ 0.12 lakh was collected.

Since the property was purchased and owned by the partnership firm and not by the partners, treatment of the deed as one in favour of family member was not in order. The RO failed to notice that the property was purchased in the name of the firm. Stamp duty and registration fees aggregating ₹ 20.25 lakh, was required to be levied on the market value of the property of ₹ 2.25 crore. Thus, there was a short collection of stamp duty and registration fees of ₹ 20.13 lakh.

After Audit pointed this out (February 2014), the Department replied (May 2014) that the matter was taken up with higher authorities to initiate action under section 33A of the IS Act for recovery of deficit stamp duty and action under section 80 A of the IR Act was initiated to recover the deficit registration fees. Further report was awaited (November 2014).

Audit reported the matter to the Government (July 2014). Reply of the Government was awaited (November 2014).

3.4.3 Short levy due to undervaluation of property

As per Articles 23 and 31 of Schedule I to IS Act, in the case of conveyance and exchange of immovable property respectively, stamp duty shall be levied at the rate of eight *per cent* (upto March 2012) and at seven *per cent* thereafter, including surcharge, on the market value of the property which is the subject matter of conveyance. According to Section 27 of IS Act, the consideration, market value and all other facts and circumstances affecting the chargeability of the instrument with duty or the amount of duty with which it is chargeable shall be fully and truly set forth therein. According to Section 47A (1) of the Act, *ibid*, if the RO has reason to believe that the market value of the property which is the subject matter of conveyance, has not been truly set forth in the instrument, he may after registering such instrument, refer the same to the Collector for determination of the market value of the property and the proper duty payable thereon.

Guidelines are supplied to ROs to arrive at the market value of the land. The value as per the 'Guidelines register' or the value of the property set forth in the document, whichever is higher, is the basis for levy of stamp duty and registration fee.

3.4.3.1 Audit noticed during test check of records of nine Registering Offices⁶¹ (between March 2013 and February 2014), that through 26 instruments of sale and one instrument of exchange executed and registered between March 2012 and March 2013, vacant land / house sites and building were conveyed and stamp duty and registration fee of ₹ 0.42 crore was collected on the set forth value of ₹ 5.19 crore. However, as per the 'Guidelines register', the value of the properties was ₹ 17.66 crore. The RO failed to adopt the guideline value for the purpose of levy of stamp duty. Thus, there was undervaluation of properties amounting to ₹ 12.47 crore, on which deficit stamp duty and registration fee of ₹ 100.10 lakh was required to be collected.

⁶¹ SR, Avadi, Jt-II SR, Chengalpet, DR, Erode, SR, Hosur, DR, Kanchipuram, SR, Manavalanagar, SR, Ponneri, SR, Sriperumbudur and SR, Tiruchengode

After Audit pointed this out, SR, Tiruchengode collected the deficit stamp duty of ₹ 1.57 lakh in February 2014. SR, Manavalanagar and Joint-II SR, Chengalpet replied (January 2014) that the instruments were referred to DRO (Stamps), Chennai in January 2014 for determination of market value. Audit reported the matter to the Government between January 2014 and April 2014. The Government replied (April/May 2014) that 12 instruments registered in three SRs⁶² were referred to the concerned DRO (Stamps)/SDC (Stamps) between July 2013 and March 2014 for determination of market value. The Government further stated that in respect of SR, Ponneri, deficit stamp duty of ₹ 2.48 lakh was collected in respect of three instruments upon determination of market value. Reply in respect of remaining 12 cases was awaited. (November 2014).

3.4.3.2 Audit noticed during test check of documents registered in Joint-IV Sub Registry, Kanchipuram (September 2010) that through an instrument of sale registered in March 2008, land measuring 52,014 sqft and house site measuring 800 sqft were conveyed for ₹ 14 lakh. Stamp duty and registration fees aggregating ₹ 1.26 lakh was collected. Since the properties were undervalued the instrument was referred to the District Revenue Officer (Stamps), Chennai for determination of market value. While forwarding the proposal to the DRO (Stamps), the RO arrived at the market value of the property as ₹ 49.70 lakh by adopting the rate of ₹ 1,000 per square metre (sqm)⁶³ and determined the deficit stamp duty as ₹ 2.86 lakh; which was subsequently paid by the parties in October 2008 in response to Form-I notice issued by DRO(Stamps).

Audit, however, noticed that the guideline rate of ₹ 1,000 is in respect of one sqft. The incorrect adoption of the rate for one sqm by the RO resulted in property being undervalued by ₹ 471.80 lakh and consequential short levy of stamp duty and registration fee of ₹ 42.46 lakh.

After Audit pointed this out, the Department replied (March, 2014) that *suo motu* review was initiated under section 47 A(6) of the IS Act. Further report was awaited (November 2014).

Audit reported the matter to the Government in May 2014. Reply of the Government was awaited. (November 2014).

⁶² Avadi, Hosur and Ponneri.

⁶³ One sqm = 10.76 sqft

3.4.3.3 Test check of the records in three registering offices (December 2013 and January 2014) revealed that in four instruments registered between July 2011 and February 2013, there was undervaluation of property and consequent short levy of stamp duty and registration fees of ₹ 3.07 crore as mentioned below:

(₹ in lakh)				
Sl. No	Name of the Registering Office	No. of sale documents (Month of Registration)	Nature of audit observation	Amount short levied
1.	SR, Walajabad	Two (January 2012 and February 2013)	Audit noticed (January 2014) that the rates applicable to agricultural land as adopted by the parties was accepted by the SR while registering (January 2012 and February 2013) instruments of sale involving 8.53 acres of land comprised in four Survey Nos. of Valaiyakkaranai Village, Sriperumpudur Taluk. Audit, however, observed that the said land was approved for residential purposes in October 2011. Thus, the application of rate applicable to agricultural land was not in order. Applying the rate of ₹ 1,000 per sqft which was set forth in the instrument of sale of plot registered in July 2013, the short realisation of stamp duty and registration fee works out to ₹ 2.92 crore.	291.77
<p>After Audit pointed this out, the RO replied (January 2014) that as per 'Guidelines register', rate for agriculture land value alone was available in respect of the land conveyed. The registration of first house site was done only in July 2013 and conversion of land as house sites was not known at the time of registration of documents in 2012 and 2013.</p> <p>The reply of the Department is not tenable as the land was approved for residential purposes in October 2011 itself i.e., before registration of the documents in January 2012 and February 2013 and, as such, the rates applicable to house sites should have been applied for determination of market value. The parties omitted to disclose the nature of land in the sale documents by violating the provisions of Section 27 of the IS Act. The RO also failed to notice the omission made by the parties.</p>				
2.	DR, Salem(West)	One (July, 2012)	Audit observed (December 2013) that through an instrument of sale, land measuring 2.40 acres was conveyed and stamp duty and registration fee was collected at the rate applicable to agricultural land. Audit, however, observed from Gift Deed registered in October 2009 that 1.65 acres of the said land was approved for residential purposes in the year 2009 and open space reservation lands for public use was also handed over to the local body. The market value of the land at residential rate was ₹ 225 per sqft. The application of incorrect rates resulted in undervaluation of property by ₹ 139.44 lakh and consequential short realisation of stamp duty and registration fee of ₹ 11.15 lakh.	11.15
<p>Audit pointed this out to the Department in December 2013. Reply was awaited (November 2014).</p>				

3.	SR, Thiruvallur	One (July, 2011)	Audit noticed (January 2014) that, while registering land measuring 1.38 acres in July, 2011, the SR accepted the rates as applicable to agricultural land adopted by the parties. However, scrutiny of the records revealed that the said land was approved for residential purposes in May 2011 and the market value of the land at residential rate was ₹ 75 per sqft. The application of incorrect rates resulted in undervaluation of property by ₹ 40.94 lakh and consequential short realisation of stamp duty and registration fee of having tax effect of ₹ 3.69 lakh.	3.69
Audit pointed this out to the Department in February 2014. Reply was awaited (November 2014).				

Audit reported the matter to the Government (February and April 2014). Reply of the Government was awaited (November 2014).

3.4.3.4 Audit observed during test check of records in SR, Thiruvallur (January 2014) that through 636 instruments of sale registered between April 2012 and March 2013, vacant plots measuring 6.89 lakh sqft were conveyed for ₹ 3.44 crore adopting the rate of ₹ 50 per sqft and stamp duty and registration fees of ₹ 27.55 lakh was collected. The value of the properties as per 'Guidelines register' was, however, ₹ 4.75 crore at the rate of ₹ 69 per sqft. Thus, there was undervaluation of properties amounting to ₹ 1.31 crore, involving short collection of stamp duty and registration fee of ₹ 10.47 lakh. The RO, failed to refer these documents to DRO (Stamps) for determination of correct market value under Section 47-A (1).

Audit pointed this out to the Department in February 2014 and to the Government in April 2014. Reply was awaited (November 2014).

3.4.4 Misclassification of instrument of Power of Attorney for consideration as General Power of Attorney

As per article 48(e) of Schedule I to the IS Act, when a power of attorney is given for consideration and authorising the attorney to sell any immovable property, stamp duty is to be levied at the rate of four *per cent* on the market value of the property equal to the amount of consideration.

As provided in Section 27, the consideration, the market value and all other facts and circumstances affecting chargeability of any instruments with duty or the amount of the duty with which it is chargeable shall be fully and truly set forth therein.

3.4.4.1 Audit observed during test check (November 2013) of documents in SR, Hosur, that a sale agreement between two companies and corresponding General Power of Attorney (GPA) were registered on 5 July 2012. The GPA authorised the attorney to look after, manage, develop and administer the schedule property of agricultural land measuring 47.36 acres including sale of land as plots /parts/undivided shares and also to execute sale deeds. It was also stated that no consideration was received.

Scrutiny of the recitals of the sale agreement revealed that one Company had paid to the other Company ₹ 1.50 crore as advance. Thus, it is evident that Power of Attorney was granted only on receipt of consideration of ₹ 1.50 crore. This was not disclosed in the power deed and registered as GPA. Since both the GPA and sale agreement come together for registration, the RO should have linked the advance amount as per agreement to the GPA. The RO, however, failed to link the documents, which resulted in misclassification of instrument and consequential short realisation of stamp duty and registration fees of ₹ 7.40 lakh.

The Government replied (June 2014) that, since it has been specifically recited in the deed of Power of Attorney that no consideration has been received, it cannot be classified as power for consideration. The Government further replied that, since it is not known which document was registered first, the audit observation to treat GPA as power for consideration by relying upon the fact of receipt of advance amount in sale agreement cannot be substantiated.

However, as per the registered sale agreement, the Principal had already received a part of consideration of ₹ 1.50 crore from the Agent. This fact was not disclosed by the parties in the power document, thereby violating the provisions of Section 27 of IS Act, according to which, the consideration, the market value and all other facts and circumstances affecting chargeability of any instruments with duty or the amount of the duty with which it is chargeable shall be fully and truly set forth therein. The instrument of GPA should have been classified as power for consideration under Article 48(e).

3.4.4.2 Audit observed, during test check (May 2012) of documents in SR, Arni, that an instrument of Power of Attorney was executed and registered in April 2011 whereby five vendors had appointed three individuals as their power agents to develop their land and to convey the same by executing sale deeds, etc. Audit further observed that the three power agents executed and registered a sale deed in December 2011 and conveyed the land in favour of eight persons including themselves for a consideration of ₹ 122.91 lakh. Scrutiny of the recitals of the sale deed revealed that ₹ 122.91 lakh was already paid in April 2011. Thus, it is evident that the power agents were given power to deal with the land by the owners on receipt of consideration of ₹ 122.91 lakh. The document was classified as GPA as this fact was not disclosed by the parties in the deed of Power of Attorney, thereby violating the provisions of Section 27 of IS Act. Thus, the suppression of the fact regarding payment of consideration resulted in short collection of stamp duty and registration fees of ₹ 6.15 lakh.

After Audit pointed this out (June 2012), the Department replied (February 2013) that as per the instrument of Power of Attorney, no consideration was received. The payment of consideration by the purchasers was made in April 2011 to the vendors under agreement for sale. Further, the power agents stood in the sale deed in the capacity of purchasers and the question of invoking Section 27 did not arise. The reply is not tenable since the land owners executed the power deed on receipt of entire sale consideration. Further, Audit noticed that ultimate sale by the power agents was effected to themselves and their close relatives and not to outsiders. Thus, the suppression of facts regarding receipt of consideration in the Power of

Attorney was in violation of the provisions of Section 27 of IS Act. The instrument of Power of Attorney should have been classified as power for consideration under Article 48(e).

Audit reported the matter to the Government during January 2014. Reply of the Government was awaited (November 2014).

3.4.5 Misclassification of instruments of Conveyance as Cancellation Deeds

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

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

It was judicially held⁶⁴ that there can be no such thing as cancellation of a conveyance under which right of property has already been passed. Property can be retransferred only by re-conveyance. Further, it was held⁶⁵ by the Honourable Madras High Court that cancellation of a Sale Deed by a 'Deed of Cancellation' can be effected only when a condition that title will pass on payment of consideration, was included in the original Sale Deed.

Audit noticed during scrutiny of records in six⁶⁶ SRs (between March 2012 and January 2014) that conveyance of properties effected (between October 2006 and March 2012) through 13 Sale Deeds was cancelled through 'Deeds of Cancellation', registered subsequently (between November 2010 and June 2012), on the ground that consideration was not received and possession was not handed over. Since the vendors had re-acquired right and interest over the properties from the original purchasers through Cancellation Deeds, these deeds were to be treated as Conveyance Deeds. Accordingly, stamp duty and registration fees aggregating ₹ 44.66 lakh was required to be levied on the market value of the property of ₹ 5.05 crore as against ₹ 0.02 lakh collected by the Department. The ROs failed to notice that, as the original sale deeds indicated receipt of consideration and handing over possession of properties, subsequent instruments retransferring the properties to the original vendors were to be classified as Conveyance Deeds. This resulted in short collection of stamp duty and registration fees of ₹ 44.64 lakh due to misclassification of Re-conveyance Deeds as Cancellation Deeds.

After Audit pointed this out (between April 2012 and January 2014), the Department (February 2014) replied that as the relevant Sale Deeds registered previously were cancelled, it has to be treated as Cancellation Deeds only and

⁶⁴ cf Emperor Vs Rameshardoss 32 All 171 SIC 697

⁶⁵ W.A.Nos.592 & 938 of 2009, in Latif Estate Line India Ltd. Vs. Registration Department

⁶⁶ Hosur, Katpadi, Kodambakkam, Mylapore, Tiruchengode and Walajabad.

would fall under Article 17 of the IS Act and unless there is a specific recital in the cancellation documents to the effect that right and interest over the property that was sold out through the sale deeds has been retransferred to the vendor of the sale deed, these Cancellation deeds cannot be construed as Reconveyance/ Conveyance deeds

However, as the original sale deeds indicated receipt of consideration and handing over possession of properties, subsequent instruments retransferring the properties to the original vendors are to be classified as Conveyance deeds falling under Article 23 of IS Act in accordance with the judicial decision mentioned above.

Audit reported the matter to the Government (April 2014). Reply of the Government was awaited (November 2014).

3.4.6 Short collection of registration fees

According to clause '1' of Item 1 of the Table of Fees prescribed under Section 78 of the Registration Act, 1908, registration fee of one *per cent* is leviable on the advance or earnest money.

Audit observed during test check of documents in SR, Sriperumbudur (January 2014) that through a sale agreement executed and registered in March 2012, the vendor company agreed to sell land with building in favour of the purchaser company for a sale consideration of ₹ 110 crore. The Agreement indicated payment of ₹ 30 lakh by the purchaser and stipulated further payment of ₹ 25 crore within a period of 15 days from the date of Agreement. Registration fees of ₹ 0.30 lakh was collected on the advance of ₹ 30 lakh paid to the vendor on the date of the sale agreement. Audit, however, observed that the recitals of the sale agreement provided that the purchaser may make a claim for refund of the entire advance amount of ₹ 25.30 crore paid to the vendor, in the event of failure of the vendor to fulfil the conditions stipulated in the agreement. Thus, registration fees of ₹ 25.30 lakh was required to be collected on the total advance of ₹ 25.30 crore as against ₹ 0.30 lakh collected by the RO. This resulted in short collection of registration fees of ₹ 25 lakh.

After Audit pointed this out, the RO replied that at the time of execution of the sale agreement, ₹ 30 lakh alone was given as advance and thus there was no short collection. But clause 2.4 of the sale agreement specifically mentions the advance amount as ₹ 25.30 crore. Further the sale deed registered in July 2013 specifically mentions that ₹ 25.30 crore had been paid as advance sale consideration under the sale agreement. Thus, registration fee of ₹ 25.30 lakh was leviable.

Audit reported the matter to Government in March 2014. Reply was awaited. (November 2014).

CHAPTER IV
TAXES ON VEHICLES

CHAPTER IV

TAXES ON VEHICLES

4.1 Tax administration

The receipts from the Transport Department are regulated under the provisions of the Motor Vehicles Act, 1988, the Central Motor Vehicles Rules, 1989, the Tamil Nadu Motor Vehicles Rules, 1989 and the Tamil Nadu Motor Vehicles Taxation Act and Rules, 1974. The Department is under the administrative control of the Transport Commissioner of the State.

4.2 Internal Audit

Internal audit is a vital component of internal controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well. Internal audit is functioning in the Department since 1978. The Department has a system of internal audit to ensure *cent per cent* audit of all the offices. There are 12 audit units, one for each Zone comprising four members and each headed by an Assistant Accounts Officer. The periodicity of audit of all offices is 'annual' but as against the target of 79 offices for 2013-14, 11 units were audited and rest was stated to be under process.

Year-wise details of the number of objections raised, settled and pending, along with tax effect as furnished by the Department, are detailed in **Table: 4.1**.

Table: 4.1

Year	Observations raised		Observations settled		Observations pending	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
Upto 2008-09	16,858	30.01	16,229	28.06	629	1.95
2009-10	6,008	6.36	5,864	5.91	144	0.45
2010-11	1,506	1.34	1,074	0.63	432	0.71
2011-12	2,906	4.16	2,448	3.43	458	0.73
2012-13	6,801	5.37	3,012	3.96	3,789	1.41

(₹ in crore)

As at the end of 31 March 2013, 5,452 paragraphs involving money value of ₹ 5.25 crore were outstanding as detailed in Table: 4.2.

Table: 4.2

As at the end of	Number of paragraphs pending	Amount involved (₹ in crore)
31 March 2011	1,755	1.36
31 March 2012	1,580	1.36
31 March 2013	5,452	5.25

The above table indicates that large number of paragraphs remained outstanding as on 31 March 2013. It is therefore suggested that a mechanism needs to be instituted for timely settlement of the audit observations raised by Internal Audit Wing.

4.3 Results of Audit

In 2013-14, test check of the records of 42 units relating to road tax, registration fee, permit fee, driving license fee, conductor license fee, penalties and composite fee under the National Permit Scheme revealed under assessment of tax and other irregularities involving ₹ 5.68 crore in 238 cases, which fall under the following categories in **Table 4.3**.

Table 4.3

(₹ in crore)			
Sl.No.	Categories	Number of cases	Amount
1.	Audit of 'Administration of Road Safety Fund'	1	-
2.	Non/short collection of tax	116	2.99
3.	Non/short collection of fees	23	0.34
4.	Non/short collection of penalty	33	1.23
5.	Other irregularities	65	1.12
	Total	238	5.68

During the course of the year 2013-14, the Department accepted under assessment and other deficiencies in 73 cases and recovered ₹ 34.16 lakh, out of which ₹ 0.84 lakh involved in three cases were pointed out during the year and the rest in earlier years.

Audit on "Administration of Road Safety Fund" and a case involving ₹ 5.33 lakh are discussed in the following paragraphs.

Audit findings**4.4 Audit on ‘Administration of Road Safety Fund’****4.4.1 Introduction**

The Tamil Nadu Government constituted the Road Safety Fund in July 2000 out of the receipts from spot fine and compounding fee collected in the State to finance road safety programmes. A portion of road safety tax levied from 1 August 2009, at the time of registration of new vehicles, was also earmarked for carrying out road safety measures and to supplement the Road Safety Fund. The Fund is administered by Inter-Departmental Committee (IDC) functioning under the Chairmanship of Secretary to Government, Home Department along with eight other members. The ‘Tamil Nadu Road Safety Fund Rules 2000’ were framed with the objective of implementing road safety measures in the State. The Government has nominated the Transport Commissioner as Road Safety Commissioner to advise the Government on the road safety policy, monitor the road safety programmes and manage the allocation and utilisation of the Road Safety Fund.

The Fund was operated in all the 32 Districts of the State. Funds are allotted by the Transport Commissioner (TC), after approval by IDC, to the District Collectors, to meet the expenditure towards road safety programmes, based on the proposals submitted by the user Departments, viz., Transport, Police and Highways Departments. The District Collectors, in turn release funds to the respective user Departments. In respect of Chennai, funds are allotted directly to the user Departments.

Audit on the ‘Administration of Road Safety Fund’ was taken up for the period from 2009-10 to 2013-14. The top four districts⁶⁷ involving 25 offices⁶⁸ were selected for detailed examination on the basis of highest allocation of funds during the period 2009-10 to 2013-14. The allocation of funds for these districts was ₹ 80 crore, which constituted 36 *per cent* of the total allocation of ₹ 225 crore during the above period.

⁶⁷ Chennai, Coimbatore, Erode and Kanchipuram

⁶⁸ Commissioner of Police, Chennai and Coimbatore;
Divisional Engineer(Highways), Chengalpet, Chennai, Coimbatore, Erode, Perundurai and Pollachi;
Regional Transport Officer, Bhavani, Chengalpet, Coimbatore (Central), Coimbatore (North), Coimbatore (South), Erode, Erode (East), Gobichettipalayam, Kanchipuram, Meenambakkam, Mettupalayam, Perundurai and Pollachi;
Superintendent of Police, Coimbatore, Erode and Kanchipuram; and
Transport Commissioner, Chennai.

4.4.2 Budget allocation

4.4.2.1 The funds required for road safety programmes are provided through budget allocations. The total receipts of road safety tax and compounding fees and the budget allocation for Road Safety Fund during the period from 2009-10 to 2013-14 were as follows:

Table: 4.4

(₹ in crore)

Year	Receipts from spot fine, compounding fee and road safety tax	Budget allocation for Road Safety Fund	Percentage of allocation
2009-10	79.06	15.00	18.97
2010-11	123.81	40.00	32.31
2011-12	142.91	40.00	27.99
2012-13	149.72	65.00	43.41
2013-14	151.13	65.00	43.01
Total	646.63	225.00	

Source: Budget Booklet and details furnished by Department.

The above table indicates that, as against the total receipts of ₹ 646.63 crore, the budget allocation was ₹ 225 crore during the period from 2009-10 to 2013-14 and it constituted 35 *per cent* of the total receipts. After Audit pointed this out (February 2014), the Transport Commissioner stated that a portion of the total receipts from Road Safety Tax was apportioned between Road Safety Fund and Chief Minister's Accident Relief Fund.

- Audit scrutinised files maintained in the Office of the Transport Commissioner which revealed that, during the year 2012-13, proposals for ₹ 47.16 crore were received from the 32 district Collectors for non-engineering works like purchase of speed radar guns, breath analysers, CCTV cameras, etc. However, as against the requirement of ₹ 47.16 crore, sanction of ₹ 12.91 crore was accorded in the IDC meeting on road safety held in July 2012 for purchase of road safety equipment. For instance, as against the required number of 1,620 speed breakers, sanction was accorded for 147 numbers of speed breakers. Similarly, as against the requirement of 299 signals, sanction was accorded for 49 signals. Sanction for four radar guns alone was accorded against the requirement of 153 speed radar guns and as against the requirement of 573 CCTVs, sanction was accorded for 50 CCTVs. Thus, even though there was requirement of funds backed by specific proposals, sanction of a lesser quantum of funds resulted in purchase of lesser equipments, compromising road safety.

Audit observed from the Publication of the Ministry of Road Transport and Highways on Road Accidents in India that the State had highest number (66,238) of road accidents, constituting a share of 13.6 *per cent* of total road accidents in the country during 2013. Further, the number of persons injured in road accidents was highest at 75,681 compared to the total of 4,94,893 throughout the country.

4.4.3 Non-utilisation of funds

Rules 6(v) of the Tamil Nadu Road Safety Fund Rules, 2000 prescribes that the user department shall start the road safety work immediately and send a completion report within three months.

Audit scrutinised the records relating to allotment, utilisation and balance of Road Safety Funds in test checked Districts, which revealed the following:

- A sum of ₹ 3.54 crore was allotted to the Divisional Engineer, Highways, Erode for undertaking road safety works during 2010-11 and 2011-12. However, the unspent balance of ₹ 1.12 crore was not remitted to the Government. Audit further noticed that the work of geometrical improvement of black spots in Erode-Karur Road of Erode Highways Division for which ₹ one crore was sanctioned out of Road Safety Fund in July 2011 was executed from the regular budget of the Highways Department, treating the work as non-deposit work without utilising the Road Safety Funds.
- A sum of ₹ 2.26 crore was allotted to Commissioner of Police, Coimbatore out of Road Safety Fund during the period 2010-11 to 2012-13. The unspent balance of ₹ 16.84 lakh was not surrendered to the Government.
- The Joint Transport Commissioner (Road Safety), Chennai had drawn and deposited ₹ 15 crore sanctioned for purchase of 100 new ambulances for Emergency Accident Relief services on 30 March 2013. The IDC, in the meeting held in August 2013, considered a proposal of the Director General of Police, Chennai for procurement of 100 new ambulances and decided to release ₹ 11.11 crore from this Fund, kept in the savings bank account of Joint Transport Commissioner (Road Safety) with a direction to remit back the excess amount of ₹ 3.89 crore into the Government account. Subsequently, the Finance Department directed (September 2013) not to issue orders for purchase of ambulances, indicating a lack of planning and coordination between the two Departments. Therefore, no purchase order was issued and the amount of ₹ 15 crore remained unutilised and also not remitted back to Government account as of November 2014.
- Similarly, a sum of ₹ 18 lakh was sanctioned by the Transport Commissioner (March 2010) to four offices⁶⁹ for purchase of speed radar guns with printer during the year 2009-10. The amounts were also released to the offices by the District Collector in April 2010. While the Office of the Superintendent of Police, Chengalpet purchased the speed radar gun for ₹ 4.5 lakh, the other three offices⁷⁰ returned ₹ 13.5 lakh during September/October 2011, citing variation in specification of the speed radar guns and insufficiency of funds. Thus, ₹ 13.5 lakh remained unutilised for a period of one and half years from April 2010 till October 2011, before the same was remitted to the District Collector, Kanchipuram.

⁶⁹ Regional Transport Officer, Chengalpet, Kanchipuram, Meenambakkam and Superintendent of Police, Kanchipuram.

⁷⁰ Regional Transport Officer, Chengalpet, Kanchipuram and Meenambakkam

After Audit pointed this out, the Department replied that the District Collector and the respective Offices were addressed to furnish their reply.

- During the year 2009-10, the IDC had approved sanction of funds to the District Collector, Erode, for the purchase of eight breath analysers for the purpose of detection of drunken driving. Out of eight breath analysers, purchased in three offices at a cost of ₹ four lakh, only two were in working condition. The balance six breath analysers were non-functioning since 2011-12. Thus, six machines, purchased at a cost of ₹ three lakh for curbing drunken driving, remained unutilised (July 2014).

4.4.4 Non-utilisation of the vehicles for enforcement activities

The main thrust of accident prevention and control strategy is based on four⁷¹ Es, one of them being Enforcement. The Publication of the Ministry of Road Transport and Highways on Road Accidents in India indicate that the number of accidents in the State during 2013, owing to the fault of driver were 63,658; of which accidents due to intake of alcohol/drugs and exceeding lawful speed by driver constituted more than 38 per cent.

As per Government order issued in March 2005⁷², eight Vehicles were purchased for strengthening the Enforcement Wing of the Transport Department at a total cost of ₹ 32.97 lakh. The vehicles were to be fixed with special equipments like speed radar guns and breath analysers on the model of Police Patrol vehicles and were to be used exclusively for enforcement activities.

Audit observed that the vehicles were not fitted with special equipments and were being used by Joint Commissioner/Deputy Commissioner, thereby defeating the purpose for which the vehicles were procured, viz., to detect drunken driving and exceeding lawful speed limit by the drivers.

Audit reported the matter to the Department and reply was awaited as of November 2014.

4.4.5 Trend of road accidents

In the second Road Safety Council meeting held in February 2008, a resolution was adopted to reduce the quantum of fatal accidents by 20 per cent by the end of the year 2013, adopting the figures for the year 2006 as the base year.

The year-wise details regarding total accidents, fatal accidents and number of deaths for the years 2006 to 2013 were as given in the following table:

⁷¹ Engineering, Enforcement, Education and Emergency care

⁷² G.O. Ms No. 260 Home (Transport V) -Department, dt. 31.03.2005

Table: 4.5

Year	Total accidents	Fatal accidents	Number of fatalities	Increase of fatalities from base year 2006	
				Number	Percentage
2006	55,145	10,055	11,009	----	----
2007	59,140	11,034	12,036	1,027	9
2008	60,409	11,813	12,784	1,775	16
2009	60,794	12,727	13,746	2,737	25
2010	64,996	14,241	15,409	4,400	40
2011	65,873	14,359	15,422	4,413	40
2012	67,757	15,072	16,175	5,166	47
2013	66,238	14,504	15,563	4,554	41

As seen from the above table, there has been an increase in number of fatal accidents when compared to the base year 2006, indicating the inadequacy of road safety measures taken by State Government.

After Audit pointed this out (February 2014), the Transport Commissioner replied that the number of fatal accidents when compared with the corresponding vehicular population had decreased from 0.11 *per cent* in 2008 to 0.09 *per cent* in 2012. However, on the contrary, the fatal accidents which were 10,055 during 2006 had risen to 11,813 during 2008 (an increase of 17.48 *per cent* when compared to the year 2006) and 14,504 during 2013 (an increase of 44.24 *per cent* when compared to the year 2006). Thus, the objective of reduction of fatal accidents by 20 *per cent* by the end of 2013, was not achieved adopting the figures for the year 2006 as the base year, as envisaged in Road Safety Council Meeting held in February 2009. Also, total number of road accidents in Tamil Nadu increased from 55,145 in 2006 to 66,238 in 2013 (an increase of 20.11 *per cent* when compared to the base year 2006).

4.4.6 Non-maintenance of separate bank account for Road Safety Fund

The Transport Commissioner, Chennai, while releasing funds to the District Collectors and Commissioner of Police, Chennai, issued specific instructions that the amounts allotted to them for road safety works should be kept in a separate savings bank account opened exclusively for this purpose.

Audit noticed that, while the District Collectors maintained separate savings bank account, eight offices of Transport Department and two offices of Police Department⁷³ kept the funds allotted under Road Safety Fund in the general savings bank account of the respective Departments. Hence, the actual unspent amount of funds allotted to them for road safety purposes and interest accrued thereon could not be ascertained in Audit.

After Audit pointed this out, the Department replied that the District Collector and the respective Offices were addressed to furnish their reply. Further reply was awaited (November 2014).

⁷³ Regional Transport Officer, Coimbatore (Central), Mettupalayam, Coimbatore (North), Coimbatore (South), Gobichettipalayam, Perundurai, Chengalpet, Kanchipuram, Superintendent of Police, Erode and Kanchipuram

4.4.7 Non-remittance of interest accumulated into Government account

As per general financial principles, any interest earned on the Government funds should be remitted into Government account. A scrutiny of the bank account details and pass books pertaining to Road Safety Fund deposited in savings bank account in 10 offices⁷⁴ revealed that interest of ₹ 1.13 crore earned between 2009-10 and 2013-14 on the unutilised amount of road safety funds was not credited to the Government account (July 2014).

This indicates lack of fiscal discipline and the failure of the Commissioner (Road Safety) to monitor and manage the allocation and utilisation of the Road Safety Fund.

After Audit pointed this out, the Department replied that the District Collectors and the respective Offices were addressed to furnish their reply. Further reply was awaited (November 2014).

4.4.8 Utilisation certificates

Audit sought details regarding receipt of utilisation certificates in respect of funds allotted to the user Departments for the period from 2009-10 to 2013-14, as the same was not available in the records furnished to audit. The details furnished by the Transport Commissioner in October 2014 revealed that utilisation certificates for ₹ 21.48 crore relating to the period 2009-10 to 2012-13 were not received, of which ₹ 8.11 crore pertained to the four Districts selected for the purpose of audit. This indicates that utilisation of funds by the user Departments was not effectively monitored.

Audit reported the above mentioned observations to Government in August 2014. Reply of the Government was awaited (November 2014).

4.4.9 Conclusion

The objective of creation of Road Safety Fund for implementing road safety measures and to overcome the difficulties and delays in the pace of implementation remains largely unachieved as the number of accidents have shown an increasing trend. Funds allocated for road safety works remained unutilised and were not remitted back to Government along with accrued interest and unspent balances, in violation of Government financial rules.

⁷⁴

District Collectorate, Coimbatore, Erode and Kanchipuram
Joint Transport Commissioner (Road Safety), Chennai, Joint Transport Commissioner (Ayanavaram and South Zone)
Regional Transport Officer, Chennai (South), Erode (East), Vellore and Commissioner of Police, Chennai.

4.5 Other Audit Observation

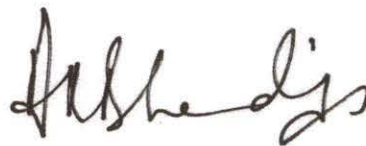
4.5.1 Non/Short collection of Motor Vehicle tax

As per clause 6B of First Schedule to the Tamil Nadu Motor Vehicles Taxation Act, 1974, construction equipment vehicles were taxed at the rate of ₹ 3,500 per annum up to 31 March 2012. As per new clause 6C inserted in the First Schedule to the Act with effect from April 2012, tax in respect of Construction equipment vehicles like Cranes was raised to ₹ 10,000 per annum.

Audit noticed during test check of records in Regional Transport Office, Madurai (South) (July 2013) that for the period from 2008-09 to 2011-12, tax of ₹ 0.95 lakh was not collected in respect of 12 cases and in respect of 48 construction equipment vehicles for the year 2012-13, as against annual tax of ₹ 4.80 lakh, ₹ 0.42 lakh was collected by the Department. Thus, there was short collection of tax of ₹ 5.33 lakh.

After Audit pointed this out, the Department (July 2014) replied that demand notices were issued in respect of 26 vehicles. Reply in respect of the remaining 22 vehicles was awaited (November 2014).

Audit reported the matter to Government in July 2014. Reply of the Government was awaited (November 2014).



(ALKA REHANI BHARDWAJ)

Accountant General

(Economic and Revenue Sector Audit)

Tamil Nadu

Chennai

Dated 16 March 2015

Countersigned



(SHASHI KANT SHARMA)

Comptroller and Auditor General of India

New Delhi

Dated 18 March 2015

ANNEXURE

ANNEXURE - I
(Refer to Paragraph 1.8 of Chapter I)

Sl.No.	Name of the Department	Nature of receipts	Auditable units	Units planned	Units audited
1.	Commercial Taxes and Registration	Sales Tax	392	182	186
		Stamp duty and Registration fee	588	145	164
2.	Revenue	Urban Land Tax	58	06	06
3.	Home (Transport)	Taxes on vehicles	71	41	42
4.	Home (Prohibition and Excise)	State Excise	75	26	30
5.	Industries	Mines and minerals	32	10	14
6.	Energy	Electricity duty	25	15	15
Total			1241	425	457

GLOSSARY

GLOSSARY

AA	Assessing Authority
ATN	Action Taken Note
C3M	Commodity Movement Monitoring Module
CC	Commodity Code
CCT	Commissioner of Commercial Taxes
CEW	Central Enforcement Wing
CST	Central Sales Tax
CTD	Commercial Taxes Department
DC	Deputy Commissioner
DR	District Registrar
DRO (Stamps)	District Revenue Officer (Stamps)
DTH	Direct to Home
EW	Enforcement Wing
G&M	Geology and Mining
GPA	General Power of Attorney
IDC	Inter-Departmental Committee
IGR	Inspector General of Registration
IPL	Indian Premier League
IR	Inspection Report
IR Act	Indian Registration Act
IS Act	Indian Stamp Act
ISIC	Inter-State Investigation Cell
ITC	Input Tax Credit
JC	Joint Commissioner
LTU	Large Taxpayers Unit
MOU	Memorandum of Understanding
NIC	National Informatics Centre
PAC	Public Accounts Committee
RC	Registration Certificate
RMC	Ready-mix Concrete
RO	Registering Officer
SDC (Stamps)	Special Deputy Collector (Stamps)
SEZ	Special Economic Zone
sqft	Square feet
sqm	Square metre
SR	Sub-Registrar
TANGEDCO	Tamil Nadu Generation and Distribution Corporation Limited
TIN	Tax Payers Identification Number
TNGST	Tamil Nadu General Sales Tax
TNVAT	Tamil Nadu Value Added Tax
TP	Transit Pass
TSP	Total Solution Program
URS	User Requirement Specifications
VAT	Value Added Tax

