



**The Report of  
the Comptroller and Auditor General of India  
on  
Revenue Sector  
for the year ended 31 March 2013**



**Government of Himachal Pradesh**  
*Report No. 1 of the year 2013*

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## PREFACE

1. This Report is prepared for submission to the Governor of the State of Himachal Pradesh under Article 151 (2) of the Constitution of India.
2. The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising Taxes / VAT on Sales, Trade etc., State Excise, Stamp Duty, Motor Vehicles Tax, Passengers and Goods Tax and Other Tax and Non-Tax Receipts of the State.
3. The cases mentioned in this Report are among those which came to notice in the course of test audit of accounts during the year 2012-13 as well as those had come to notice in earlier years but could not be dealt with previous Reports; matters relating to the period subsequent to 2012-13 have also been included, wherever necessary.
4. The audit has been conducted in conformity with Auditing Standards issued by the Comptroller and Auditor General of India.

## OVERVIEW

This Report contains 30 paragraphs including one Performance audit on '*Levy and Collection of Passenger and Goods Tax*', involving ₹781.44 crore relating to underassessment of tax, non / short levy of state excise, non / short levy of stamp duty and registration fee, non / short levy of passenger and goods tax, non / short levy of royalty etc. Some of the major findings are mentioned below:

### 1. General

The total revenue receipts of the Government for the year 2012-13 were ₹15,598.14 crore as compared to ₹14,542.86 crore of the previous year. Out of this, 38 *per cent* was raised through tax revenue (₹4,626.17 crore) and non-tax revenue (₹1,376.88 crore). The balance 62 *per cent* was received from the Government of India as States' share of divisible Union taxes (₹2,282.02 crore) and Grants-in-aid (₹7,313.07 crore).

*(Paragraph 1.1)*

Test check of the records of 241 units of Sales tax / VAT, State excise, Stamp and Registration fee, Motor Vehicles, Goods and Passenger tax, Forest receipts and other non-tax receipt conducted during the year 2012-13 showed underassessment, short levy of revenue aggregating ₹1023.30 crore in 780 cases. During the course of the year, the concerned departments accepted underassessment and other deficiencies of ₹779.17 crore in 516 cases. The departments collected ₹266.53 crore in 183 cases during 2012-13, pertaining to the findings of previous year.

*(Paragraph 1.11)*

### II. Taxes / VAT on Sales, Trade etc.

Incorrect allowance of ITC of ₹1.41 crore by the AAs on closing stock by applying different methods had deferred the tax liability of 119 assesseees which was otherwise recoverable on the date of assessment and resulted in excess allowance of ITC of ₹2.13 crore including interest of ₹72.30 lakh.

*(Paragraph 2.3.2)*

In 53 cases, acceptance of returns without list of purchases and allowance of ITC by four AETCs on such incomplete returns for the tax periods from 2006-07 to 2010-11 resulted in irregular allowance of ₹4.01 crore.

*(Paragraph 2.3.4)*

In one case, the AA had allowed ITC without tax invoices and mandatory Indemnity Bond in the case of invoices stated as burnt two years ago. This resulted in irregular allowance of ITC of ₹3.19 crore including interest.

*(Paragraph 2.3.6)*

In three AETCs, a deduction of ₹28.53 crore from the GTO was allowed on account of material supplied by the Departments to contractors for the execution of the works

in contravention of the provisions of the Act / decision of the Hon'ble Supreme Court, resulting in underassessment of the tax of ₹2.25 crore including interest.

*(Paragraph 2.4)*

In two AETCs, assessment of the sales of ₹16.69 crore in respect of 10 dealers at the rate of four or five *per cent* instead of correct rate of 12.50 *per cent* resulted in short finalisation of tax of ₹2.48 crore including interest for the tax periods from 2005-06 to 2010-11.

*(Paragraph 2.5.1)*

Two AETCs had applied concessional rate of tax of one *per cent* on inter-state sale of ₹279.40 crore to 10 industrial units located in industrially backward areas who had not employed mandatory 80 *per cent* bonafide Himachalis in their units as per provisions of Act. This resulted in underassessment of the tax of ₹11.50 crore including interest.

*(Paragraph 2.7)*

Acceptance of defective / incomplete / duplicates statutory forms 'C' and 'F' by the five assessing authorities and allowing exemption / concessional rate of tax to 23 dealers resulted in short levy of tax of ₹1.95 crore including interest.

*(Paragraphs 2.9 and 2.12)*

### **III. State Excise**

Low yield of spirit from molasses in one distillery in resulted in short collection of excise duty of ₹24.81 lakh.

*(Paragraph 3.3.4.2)*

In five AETCs, salaries of ₹1.53 crore of excise establishment posted in three distilleries and 10 bonded warehouses had not been paid by the licensees for the period between 2008-09 and 2011-12 and resulted in non-recovery of dues to that extent.

*(Paragraph 3.3.6)*

### **IV. Stamp Duty**

In 22 sub registrars, incorrect preparation of valuation reports by Patwaris and incorrect determination of the market value of property in 355 cases resulted in short realisation of stamp duty and registration fee of ₹2.56 crore.

*(Paragraphs 4.3 and 4.4)*

In two sub registrars, non-valuation of property by Collector / District Valuation Committee and due to change of classification of land in 20 cases resulted in short realisation of stamp duty and registration fee of ₹24.12 lakh.

*(Paragraph 4.5 and 4.6)*

## **V. Taxes on Vehicles, Goods and Passengers**

A Performance audit on 'Levy and collection of Passenger and Goods Tax' was conducted. Some major findings are given below:

Lack of co-ordination between the concerned RLAs / RTOs and AETCs to ensure the registration of all vehicles with them resulted in non-registration of 13,314 commercial vehicles for the period 2007-08 to 2011-12 and non-realisation of Passenger and Goods Tax amounting to ₹14.52 crore.

*(Paragraph 5.3.8.2)*

Non-registration of contractors under HPPGT Act resulted in non-levy of additional goods tax of ₹1.01 crore including penalty on supply of 4,79,986.75 metric tonnes of shale to ACC Burmana.

*(Paragraph 5.3.9.2)*

Non-establishment of barriers / check-posts between mining area and manufacturing units resulted in evasion of additional goods tax of ₹6.77 crore on the transportation of 50,95,231.45 metric tonnes of limestone and 1,694.71 metric tonnes of barytes.

*(Paragraph 5.3.9.3)*

Delay in authorisation of cement companies for collection of additional goods tax resulted in loss of revenue of ₹189.08 crore on transportation of 6,85,26,412.51 metric tonnes of limestone and 51,86,582.43 metric tonnes of shale from mining areas to cement plants for manufacturing of cement.

*(Paragraph 5.3.9.4)*

Laxity on the part of the Excise and Taxation Department in registration of 451 goods vehicles during the period between 2001-02 and 2008-09 resulted in non-recovery of goods tax of ₹1.06 crore.

*(Paragraphs 5.3.10.2 and 5.3.10.3)*

Not devising any system to recover the pending arrears in a time bound manner resulted in non-recovery of passenger tax of ₹6.49 crore in respect of 403 cases after their transfer from excise department to State Transport Authority.

*(Paragraph 5.3.11)*

In nine regional transport authorities, non / short payment of special road tax resulted in non-recovery of Government dues of ₹14.88 crore.

*(Paragraph 5.4.1 and 5.5)*



Token tax and entry tax of ₹1.70 crore for the years 2010-11 and 2011-12 was neither paid by 4,031 vehicle owners nor recovered by 19 registering and licensing authorities and nine regional transport authorities.

*(Paragraph 5.6)*

## **VI. Forest Receipts**

In four forest divisions, laxity in timely detection of forest offences on the part of the field staff resulted in short seizure 333.497 cu.m of standing volume of timber involving loss of revenue of ₹94.69 lakh.

*(Paragraph 6.3)*

In two forest divisions, six roads were constructed without prior approval of MoEF / GoI during the years 2006-07 to 2011-12 on 14.57 *hectare* of forest land, which was not detected by the field functionaries of forest department and resulted in enormous environmental loss, breakage of forest land and destruction of plantation. The offence involved a loss of revenue of ₹1.23 crore on account of Net Present Value which otherwise was payable to the department in all the cases of transfer of forest land for non-forestry purpose and departmental charges.

*(Paragraph 6.6)*

## **VII. Other Tax and Non-Tax Receipts**

Non-deposit of electricity duty of ₹493.40 crore by the Himachal Pradesh State Electricity Board resulted in non-recovery of revenue to that extent and minimum interest liability of ₹34.06 crore on loans raised by the Government, could have been saved if the Board made payments on due dates.

*(Paragraph 7.3)*

Non-credit of lapsed deposits to the Government revenue account of ₹1.08 crore by eight Buildings and Roads divisions resulted in understatement of revenue to that extent.

*(Paragraph 7.5)*

# CHAPTER-I GENERAL

## 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenue raised by the Government of Himachal Pradesh during the year 2012-13, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grant-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**:

**Table – 1.1**  
**Trend of revenue receipts**

(₹ in crore)						
Sr. No.	Particulars	2008-09	2009-10	2010-11	2011-12	2012-13
<b>1.</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue	2,242.49	2,574.52	3,642.38	4,107.92	4,626.17
	• Non-tax revenue	1,756.24	1,783.66	1,695.31	1,915.20	1,376.88
	Total	<b>3,998.73</b>	<b>4,358.18</b>	<b>5,337.69</b>	<b>6,023.12</b>	<b>6,003.05</b>
<b>2.</b>	<b>Receipts from the Government of India</b>					
	• Share of net proceeds of divisible Union taxes and duties	837.49	861.63	1,715.35	1,998.37	2,282.02 <sup>1</sup>
	• Grants-in-aid	4,471.77	5,126.55	5,657.57	6,521.37	7,313.07
	Total	<b>5,309.26</b>	<b>5,988.18</b>	<b>7,372.92</b>	<b>8,519.74</b>	<b>9,595.09</b>
<b>3.</b>	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>9,307.99</b>	<b>10,346.36</b>	<b>12,710.61</b>	<b>14,542.86</b>	<b>15,598.14</b>
<b>4.</b>	<b>Percentage of 1 to 3</b>	<b>43</b>	<b>42</b>	<b>42</b>	<b>41</b>	<b>38</b>

The above table indicates that during the year 2012-13, the revenue raised by the State Government (₹6,003.05 crore) was 38 *per cent* of the total revenue receipts. The balance 62 *per cent* of the receipts during 2012-13 was from the Government of India.

The details of the tax revenue raised during the period 2008-09 to 2012-13 are given in **Table 1.2**:

<sup>1</sup> For details, please see Statement No. 11-'Detailed statement of revenue and capital receipt by minor heads' in the Finance Accounts of the Government of Himachal Pradesh for the year 2012-13. Figures under the Major Receipts Head 0020-Corporation tax, 0021-Taxes on income other than Corporation tax, 0032-Taxes on wealth, 0037-Customs, 0038-Union excise duties, 0044-Service tax and 0045-Other Taxes and Duties on Commodities and Services -901 Share of net proceeds assigned to State booked under A-tax revenue have been excluded from the revenue raised by the State Government and included in the State's share of divisible Union taxes.

**Table 1.2  
Details of Tax Revenue raised**

							(₹ in crore)
Sr. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+) or decrease (-) in 2012-13 over 2011-12
1.	Land revenue	20.28	14.54	4.78	17.86	23.60	32
2.	Stamps and registration fees						
	Stamps - judicial	4.69	5.95	6.58	8.91	8.85	(-) 1
	Stamps -non-judicial	73.53	84.10	101.50	111.21	117.23	5
	Registration fees	20.11	23.34	24.61	34.97	46.53	33
3.	State excise	431.83	500.26	561.53	707.36	809.87	14
4.	Taxes on sales, trade etc.	1,246.31	1,487.40	2,101.10	2,476.78	2,728.22	10
5.	Taxes on vehicles	135.53	133.97	163.02	176.03	196.13	11
6.	Taxes on goods and passengers	62.39	88.74	93.46	94.36	101.39	7
7.	Taxes and duties on electricity	78.83	39.08	301.59	185.47	262.63	42
8.	Others	168.99	197.14	284.21	294.97	331.72	12
	<b>Total</b>	<b>2,242.49</b>	<b>2,574.52</b>	<b>3,642.38</b>	<b>4,107.92</b>	<b>4,626.17</b>	<b>13</b>

The respective Departments reported the following reasons for variation:

**Land revenue:** The increase was due to more deposit of receipt from lease of Government estates and also of miscellaneous receipts.

**Stamps and Registration Fees:** The increase was due to more registration of different deeds like conveyance, gift, mortgage with possession etc.

**State Excise:** The increase was due to rise in the rates of license fee and excise duty per proof liter on country and Indian made foreign liquor. It was also due to increase in the annual minimum guaranteed quota and enhancement of fixed fee on supply to Bar-license holders, clubs and Armed forces.

**Taxes on sales, trade etc.:** The increase was due to better tax administration, increase of tax rates on Cigarettes / *Beedies* and other tobacco products. Besides, frequent checking / inspections made by the field / barrier's staff and flying squads also contributed to the increase.

**Taxes on vehicles:** The increase was due to more registration of vehicles, issuance of licences, better enforcement of Act and more receipts of fees under new National Permit Scheme.

**Taxes on goods and passengers:** The increase was due to increase in number of vehicles and better recovery efforts made by the department.

**Taxes and duties on electricity:** The increase was due to receipt of electricity duty of previous years.

The other Departments despite being requested (September 2013) did not furnish the reasons for variations in receipts from that of the previous year (November 2013).

1.1.2 The details of the non-tax revenue raised during the period 2008-09 to 2012-13 are indicated in **Table 1.3**:

**Table 1.3**  
**Details of Non-tax revenue raised**

							(₹ in crore)
Sr. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+) or decrease (-) in 2012-13 over 2011-12
1.	Power	1,255.43	1,214.80	1,093.21	1,145.70	637.15	(-) 44
2.	Non-ferrous, mining and metallurgical industries	76.57	85.09	113.84	120.12	147.90	23
3.	Interest receipts	77.97	76.93	69.95	115.09	69.90	(-) 39
4.	Forestry and wild life	55.40	72.11	65.44	106.54	63.90	(-) 40
5.	Public works	22.59	30.81	34.66	41.63	39.72	(-) 5
6.	Miscellaneous general services	5.25	1.05	2.06	40.01	8.94	(-) 78
7.	Other administrative services	14.07	17.28	31.00	26.23	45.71	74
8.	Police	15.05	11.57	19.10	15.39	20.63	34
9.	Medical and Public Health	8.19	5.81	8.40	8.66	11.21	29
10.	Co-operation	2.80	3.35	9.59	2.30	3.24	41
11.	Major and medium irrigation	0.17	0.14	6.84	0.36	0.33	(-) 8
12.	Other Non-tax receipts	222.75	264.72	241.22	293.17	328.25 <sup>2</sup>	12
<b>Total</b>		<b>1,756.24</b>	<b>1,783.66</b>	<b>1,695.31</b>	<b>1,915.20</b>	<b>1,376.88</b>	<b>(-) 28</b>

The respective Departments reported the following reasons for variation:

**Forestry and Wild Life:** The decrease was due to less payment from the Himachal Pradesh State Forest Corporation and other consumers/organisations, for timber and other forest produce besides, lesser receipts from the other departments in respect of Compensatory afforestation.

**Police:** The increase was due to payment of arrears by Bhakra Beas Management Board (BBMB), Railway Authority and other authorities for supply of police guards and auction of condemned articles.

**Co-operation:** The increase was due to advance receipt of Grants from the National Co-operative Development Corporation, New Delhi for the execution of two Integrated Co-operative Development Projects in Bilaspur and Hamirpur.

**Major and medium irrigation:** The decrease was due to lesser receipts from the beneficiaries.

<sup>2</sup> Receipts comprise mainly from Himachal Pradesh Public Service Commission, Printing & Stationery, Water Supply & Sanitation, Family Welfare and Housing Departments etc.

The other Departments despite being requested (September 2013) did not intimate the reasons for variation in receipts from that of the previous year (November 2013).

## 1.2 Variations between budget estimates and actuals

Variation between the budget estimates and actual of revenue receipts for the year 2012-13 in respect of the principal heads of tax and non-tax revenue are given in **Table 1.4**:

**Table 1.4**  
Details of budget estimates and actuals

					(₹ in crore)
Sr. No.	Head of revenue	Budget estimates	Actual receipts	Variations excess (+) or shortfall (-)	Percentage of variation
1.	Land revenue	4.01	23.60	19.59	488.53
2.	Stamps and registration fees	159.05	172.61	13.56	8.53
3.	State excise	800.14	809.87	9.73	1.22
4.	Taxes on sales, trade etc.	3,161.57	2,728.22	(-) 433.35	(-) 13.71
5.	Taxes on vehicles	215.39	196.13	(-) 19.26	(-) 8.94
6.	Taxes on goods and passengers	118.19	101.39	(-) 16.80	(-) 14.21
7.	Taxes and duties on electricity	217.03	262.63	45.60	21.01
8.	Other taxes and duties on commodities and services	382.04	331.72	(-) 50.32	(-) 13.17
9.	Interest receipts	125.56	69.90	(-) 55.66	(-) 44.33
10.	Police	21.03	20.63	(-) 0.40	(-) 1.90
11.	Stationery and printing	7.27	6.16	(-) 1.11	(-) 15.27
12.	Public works	38.89	39.72	0.83	2.13
13.	Education, sports, art and culture	113.33	112.11	(-) 1.22	(-) 1.08
14.	Medical and public health	7.13	11.21	4.08	57.22
15.	Water supply and sanitation	30.15	34.15	4.00	13.27
16.	Housing	3.31	3.67	0.36	10.88
17.	Social security and welfare	5.05	5.76	0.71	14.06
18.	Crop husbandry (including horticulture)	12.21	6.68	(-) 5.53	(-) 45.29
19.	Animal husbandry	0.58	0.83	0.25	43.10
20.	Fisheries	1.44	1.94	0.50	34.72
21.	Forestry and wild life	75.31	63.90	(-) 11.41	(-) 15.15
22.	Power	1,243.00	637.15	(-) 605.85	(-) 48.74
23.	Industries	5.90	6.17	0.27	4.58
24.	Non-ferrous, mining and metallurgical industries	137.94	147.90	9.96	7.22

The respective Departments reported the following reasons for variation:

**State excise:** The increase was due to rise in the rates of license fee and excise duty per proof liter on country liquor and Indian made foreign liquor besides, increase in the annual minimum guaranteed quota and enhancement of fixed fee on supply to R-license holders, clubs and Armed forces.

**Taxes on sales, trade etc.:** The decrease was due to the shortfall in receipts from entry tax and completion of work contracts.

**Taxes on goods and passengers:** The decrease was due to non-revision of rates of tax and deposit of composite fee / all India national permit fee under the

National Permit Policy instead of Passengers and goods tax by the commercial vehicles coming from outside the State of HP.

**Taxes on vehicles:** The decrease was due to non-payment of Special Road Tax by the Himachal Road Transport Corporation.

**Other taxes and duties on commodities and services:** The decrease was due to less movement of sand and grit into the State because of ban on mining operations in neighbouring States, little import of cement and other construction material into the State due to completion of various hydel projects and diversion of tourists to the State of J&K.

**Police:** The decrease was due to issue of lesser licenses under the Arms Act / permits for plying of vehicles on the restricted roads of Shimla City by the District authorities.

**Public Works:** The increase was due to more recovery of departmental charges under the revenue Head.

**Crop husbandry including Horticulture:** The decrease was due to less production of fruits / fruit plants, lesser sale of pesticides / horticulture equipments and non-receipt of funds from the Central Government under the *Mandi Madhyast Yojna*.

**Forestry and Wild Life:** The decrease was stated due to less payment from the Himachal Pradesh State Forest Corporation and other consumers / organisations, for wood from the forests and other forest produce besides, lesser receipts under Section 68 of Indian Forest Act.

**Animal husbandry:** The increase was due to enhancement of prescription fee being charged from livestock owners, more sales of sheep / Hogget from departmental sheep breeding farms, sale of immovable / moveable property and recovery of over payment.

**Fisheries:** The increase was due to more recovery of rent of residential buildings, issue of more licenses, more production of fish in Gobind Sagar and Pong dams and sale of fish at higher rates.

**Water supply and sanitation:** The increase was due to 10 *per cent* hike in the rates of water as per policy of the Government. Besides, the beneficiaries paid their bills in the subsequent year instead of current year.

### 1.3 Cost of collection of Major revenue receipts

The gross collection of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2010-11, 2011-12 and 2012-13 alongwith the relevant all India average percentage of expenditure on collection to gross collection for 2011-12 are given in **Table 1.5:**



**Table 1.5**  
Cost of collection of Major revenue receipts

(₹ in crore)						
Sr. No.	Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2011-12
1.	Stamps and Registration fee	2010-11	132.69	1.04	0.78	1.89
		2011-12	155.09	1.14	0.74	
		2012-13	172.61	1.22	0.71	
2.	State excise	2010-11	561.53	5.84	1.04	2.98
		2011-12	707.36	2.58	0.36	
		2012-13	809.87	2.78	0.34	
3.	Taxes on sales, trade etc.	2010-11	2,101.10	21.85	1.04	0.83
		2011-12	2,476.78	5.16	0.21	
		2012-13	2,728.22	3.40	0.21	
4.	Taxes on vehicle, goods and passengers	2010-11	256.48	0.97	0.38	2.96
		2011-12	270.39	26.83	9.92	
		2012-13	297.52	3.21	1.08	

It would be seen from the above that cost of collection under all the revenue heads was lower than the all India average except in taxes on vehicle, goods and passengers for the year 2011-12.

#### 1.4 Analysis of arrears of revenue in terms of total outstanding and outstanding for more than five years

The arrears of revenue as on 31 March 2013 on some principal heads of revenue amounted to ₹749.28 crore of which ₹236.12 crore was outstanding for more than five years, as detailed in the **Table-1.6**:

**Table 1.6**  
Arrears of revenue outstanding for more than five year

(₹ in crore)				
Sr. No.	Head of revenue	Total Amount outstanding as on 31 March 2013	Amount outstanding for more than 5 years as on 31 March 2013	Replies of Department
1.	Taxes on Sales, Trade etc.	235.33	124.74	Arrears are accumulated from the year 1968-69. Demands for ₹56.26 crore had been certified as arrears of land revenue, ₹9.92 crore proposed to be written off remaining, ₹7.15 crore were recoverable from the Government departments / undertakings, recoveries amounting to ₹7.67 crore were stayed by the High Court / other judicial authorities and ₹154.33 crore recoverable from the dealers.
2.	Forestry and wild life	55.94	NA	Most of the cases pertaining to contractors (₹3.52 crore) had been referred to the Collectors concerned for recovery under arrear of land revenue and the remaining were under trial in the Court of law. Efforts to recover the balance amount of ₹52.15 crore and ₹0.27 crore from the HPSFDC Ltd. and other Government Departments respectively are being made.
3.	Taxes on vehicles	211.65	90.37	Suitable reply was not received from the department.
4.	Taxes on Goods and Passengers	7.92	7.13	Demands for ₹3.19 crore had been certified for recovery as arrears of land revenue, ₹1.82 crore were proposed to be written off, remaining arrears of ₹1.01 crore recoverable from Government. Departments / undertakings, ₹4,400 were stayed by the High Court / others judicial authorities and of ₹1.90 crore recoverable from the owners of different vehicles.
5.	Police	22.40	3.88	The cases of recovery were pending with the departments.
6.	Water supply, sanitation and minor irrigation	178.27	NA	Out of total arrears of ₹178.27 crore for supply of water, ₹161.60 crore pertained to municipal corporation / committees and notified area committees, ₹4.93 crore and ₹0.51 crore to non government bodies and government departments respectively, ₹11.17 crore to minor irrigation and ₹0.05 crore to housing.

7.	State Excise	12.65	5.56	Demands for ₹5.99 crore had been certified for recovery as arrears of land revenue, ₹93,545 were stayed by the High Court / other judicial authorities, ₹0.02 crore were proposed to be written off and arrears of ₹6.63 crore was recoverable from the bidders / licensees.
8.	Other taxes and duties on commodities and services	19.84	2.78	Demands for ₹6.12 crore had been certified for recovery as arrears of land revenue, ₹39,100 proposed for write off, ₹2.02 crore stayed by the High Court / others judicial authorities and ₹11.70 crore recoverable from different hoteliers.
9.	Village and Small Industries	0.26	0.13	The cases of recovery were pending with departmental authorities.
10.	Industries	3.97	0.78	The cases of recovery were pending with departmental authorities.
11.	Non-ferrous, mining and metallurgical industries	0.74	0.50	The arrears were recoverable from Mining Offices & DDO (Headquarter) Geological wing on account of recovery of drilling charges etc.
12.	Public works	0.31	0.25	Arrears accumulated from the years 1954-55 and onwards. Out of total arrears of ₹0.31 crore, ₹0.07 crore were pending with the Courts while remaining involving ₹0.24 crore were with department.
<b>Total</b>		<b>749.28</b>	<b>236.12</b>	

It would be seen from the table that recovery of ₹236.12 crore was pending for more than five years and no sincere efforts were being made to recover them. Arrears of ₹652.66 crore were pending with the departmental authorities. The cases referred for write off (₹9.78 crore) were also not being pursued with the quarters concerned.

### 1.5 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 Sales Tax Department in respect of sales tax, motor spirit tax, luxury tax and tax on works contracts was as below in **Table 1.7**:

**Table 1.7**  
Arrears in assessments

Head of revenue	Opening balance	New cases due for assessment during 2012-13	Total assessments due	Cases disposed of during 2012-13	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
Taxes on sales, trade etc.	59,701 1,56,062	65,883 58,215	1,25,584 2,14,277	7,982 81,849	1,17,602 1,32,428	26
Luxury tax	1,126	2150	3276	404	2872	12
Tax on works contracts	1,411	1107	2518	605	1913	24
Motor spirit tax	479	2	481	481	0	100

It would be seen from the table that the percentage of disposal of assessment cases was very low and ranged between 12 and 26 *per cent* under these heads of revenue, except motor spirit tax, which needs to be improved.

### 1.6 Evasion of tax

The details of cases of evasion of tax detected by the Excise and Taxation Department, cases finalised and the demands for additional tax raised as reported by the Department are given in **Table 1.8**:



Table 1.8

(₹ in crore)							
Sr. No.	Head of revenue	Cases pending as on 31 March 2012	Cases detected during 2012-13	Total	Number of cases in which assessment / investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalisation as on 31 March 2013
					Number of cases	Amount of demand	
1.	State Excise	3	1,185	1,188	1,143	1.71	45
2.	Taxes on sales, trade etc.	113	6,551	6,664	6,562	41.47	102
3.	Passengers and goods tax	293	4,753	5,046	4,860	2.49	186
4.	Other taxes and duties on commodities and services	27	1,928	1,955	1,949	2.57	6
<b>Total</b>		<b>436</b>	<b>14,417</b>	<b>14,853</b>	<b>14,514</b>	<b>48.24</b>	<b>339</b>

It would be seen from the above table that the number of cases pending at the end of the year has slightly reduced than number of cases pending at the start of the year.

### 1.7 Pendency of Refund Cases

The number of refund cases pending at the beginning of the year 2012-13, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2012-13 as reported by the Department is given in **Table 1.9**:

Table 1.9

(₹ in crore)					
Sr. No.	Particulars	Sales tax / VAT		State Excise	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	53	11.68	02	0.04
2.	Claims received during the year	33	25.61	52	0.47
3.	Refunds made during the year	22	8.60	48	0.38
4.	Balance outstanding at the end of year	64	28.69	6	0.13

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

The progress to dispose of the refund cases of Sales Tax / VAT was very slow as compared to claims received.

## 1.8 Response of the Government / departments towards audit

### 1.8.1 Failure of the Heads of Department to enforce accountability to protect interest of the Government

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

Inspection reports issued upto December 2012 disclosed that 8,526 paragraphs involving ₹1,476.50 crore relating to 3,269 IRs remained outstanding at the end of June 2013 as mentioned below alongwith the corresponding figures for the preceding two years in **Table 1.10**:

**Table 1.10**

	June 2011	June 2012	June 2013
<b>Number of IRs pending for settlement</b>	3,572	3,716	<b>3,269</b>
<b>Number of outstanding audit observations</b>	8,608	9,763	<b>8,526</b>
<b>Amount of revenue involved (₹ in crore)</b>	586.21	995.12	<b>1,476.50</b>

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2013 and the amounts involved are mentioned in the **Table 1.11**:

**Table 1.11**

Sl. No	Name of the Department	Nature of receipts	Numbers of outstanding IRs	Numbers of outstanding audit observations	Money value involved (₹ in crore)
1.	Finance	Taxes on Sales, Trade etc.	122	771	204.62
		Passenger & Goods Tax (PGT)	207	524	214.29
		Other Taxes & Duties on commodities and services (OTD)	286	359	14.94
		Entertainment & luxury tax etc.	110	224	1.01
2.	Excise	State Excise	64	184	17.76
3.	Revenue	Land Revenue	237	413	0.86
4.	Transport	Taxes on motor vehicles	692	2,361	77.64
5.	Stamp and Registration	Stamp and registration fees	581	1,154	46.44
6.	Mines and Geology	Non-ferrous mining and metallurgical industries	44	119	7.82
7.	Forest and environment	Forestry and wild life	581	1,688	541.88

<b>8.</b>	Water resources (IPH)	Water rates	93	256	208.66
<b>9.</b>	Public Works (B&R)	Deposit Works	136	273	83.63
<b>10.</b>	Crop husbandry	Horticulture and Agriculture	82	135	3.50
<b>11.</b>	Co-operation	Audit fees and other receipts	34	65	53.45
<b>Total</b>			<b>3,269</b>	<b>8,526</b>	<b>1,476.50</b>

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of the IRs, for 164 IRs issued during 2012-13. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs.

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

### **1.8.2 Departmental audit committee meetings**

The Government set up audit committees to monitor and expedite the progress of the settlement of the IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2012-13 and the paragraphs settled are mentioned in **Table 1.12**:

**Table 1.12**

				<b>(₹ in crore)</b>
<b>Sr. No.</b>	<b>Head of revenue</b>	<b>Number of meetings held</b>	<b>Number of paras settled</b>	<b>Amount</b>
<b>1.</b>	Revenue Department	2	52	00.14
<b>2.</b>	State Excise Department	3	157	15.10
<b>3.</b>	Transport Department	2	43	00.42
<b>Total</b>		<b>7</b>	<b>252</b>	<b>15.66</b>

The progress of settlement of paragraphs pertaining to the Transport Department and Revenue Department was negligible as compared to the huge pendency of the IRs and paragraphs; despite holding Departmental audit committee meetings.

### **1.8.3 Response of the Departments to the draft audit paragraphs**

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the PAG to the Principal Secretaries / 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 the replies from the Departments / Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Thirty two draft paragraphs including one Performance audit were sent to the Principal Secretaries / Secretaries of the respective Departments by name between February and August 2013. The Principal Secretaries / Secretaries of the Departments did not send replies to 19 draft paragraphs including performance audit despite issue of reminders (September 2013) and the same have been included in this Report without the response of the Departments.

#### 1.8.4 Follow up on the Audit Reports-summarised position

The internal working system of the Public Accounts Committee, notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the 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 three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. 159 paragraphs (including performance audit) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Himachal Pradesh for the years ended 31 March 2008, 2009, 2010 and 2011 were placed before the State Legislature Assembly between 16 December 2008 and 6 April 2012. The action taken explanatory notes from the concerned Departments on these paragraphs were received late with average delay of nine, six, seven and 14 months in respect of each of these Audit Reports, respectively. Action taken explanatory notes in respect of three paragraphs from two departments (Revenue and PWD) had not been received for the Audit Report year ended 31 March 2011 so far (November 2013).

#### 1.8.5 Compliance with the earlier Audit Reports

On the paragraphs featured in the Audit Reports 2007-08 to 2011-12, the Departments / Government accepted audit observations involving ₹1,208.06 crore of which ₹113.87 crore had been recovered till 31 March 2013 as mentioned in the **Table 1.13**:

Table 1.13

			(₹ in crore)
Year of Audit Report	Total money Value	Accepted money Value	Recovery made
2007-08	105.05	24.96	6.61
2008-09	182.02	138.42	94.40
2009-10	1,420.98	839.53	8.83
2010-11	141.27	29.52	2.96
2011-12	722.39	175.63	1.07
<b>Total</b>	<b>2,571.71</b>	<b>1,208.06</b>	<b>113.87</b>

The above table indicates that the amount recovered was only 9.43 per cent of the accepted amount while the Government / Departments have accepted 47 per cent of the cases included in the Audit Reports.

The Government may consider introducing a mechanism for ensuring prompt recovery of the amounts involved, at least in the accepted cases.

#### 1.9 Analysis of the mechanism for dealing with the issues raised by Audit

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

The succeeding paragraphs 1.9.1 to 1.9.2.2 discuss the performance of the Excise and Taxation Department in respect of State Excise duties under revenue head-0039 and cases detected in the course of local audit during the last ten years and also the cases included in the Audit Reports for the years 2002-03 to 2011-12.

### 1.9.1 Position of Inspection Reports

The summarised position of the inspection reports issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2013 are tabulated in below **Table-1.14**:

**Table 1.14**

Sr. No.	Year	₹ in crore)											
		Opening Balance			Addition during the year			Clearance during the quarter			Closing balance during the year		
		IRs	Para graphs	Money value	IRs	Para graphs	Money value	IRs	Para graphs	Money value	IRs	Para graphs	Money value
1.	2002-03	113	293	1.81	11	71	6.21	39	114	5.93	85	250	2.09
2.	2003-04	85	250	2.09	9	39	2.82	33	155	0.63	61	134	1.46
3.	2004-05	61	134	1.46	9	41	7.67	10	30	1.08	60	145	8.05
4.	2005-06	60	145	8.05	13	48	7.28	12	42	1.41	61	151	13.92
5.	2006-07	61	151	13.92	15	44	1.96	7	25	3.56	69	170	12.32
6.	2007-08	69	170	12.32	14	59	2.23	2	16	0.41	81	213	14.14
7.	2008-09	81	213	14.14	6	71	27.47	2	30	1.35	85	254	40.26
8.	2009-10	85	254	40.26	15	95	6.79	21	72	13.48	79	277	33.58
9.	2010-11	79	277	33.58	9	64	3.48	8	149	2.14	60	192	34.76
10.	2011-12	60	192	34.76	8	55	1.41	9	46	24.04	59	201	12.13

The Government arranges ad-hoc Committee meetings between the Department and PAG's office to settle the old paragraphs. As would be evident from the above table, against 113 outstanding IRs with 293 paragraphs as on start of 2002-03, the number of outstanding IRs declined to 59 with 201 paragraphs at the end of 2011-12. This is indicative of the fact that adequate steps were taken by the Department in this regard resulting in reduction of the outstanding IRs and paragraphs.

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

#### 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 1.15**:

Table 1.15

(₹ in crore)						
Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted including money value	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases as of 31.03-2012
2002-03	1	5.07	1	0.33	0.02	0.02
2003-04	3	1.49	2	0.49	0.006	0.10
2004-05	2	1.26	1	0.31	0.16	0.16
2005-06	3	0.12	3	0.49	0.32	0.41
2006-07	1	0.86	0	0	0	0.31
2007-08	3	1.27	2	1.25	48.07	1.04
2008-09	3	10.65	3	6.29	0.17	0.28
2009-10	4	1.47	2	0.07	0.03	0.78
2010-11	4	0.39	1	0.0	0.0	0.08
2011-12	3	0.22	1	0.07	0.0	The department had not furnished the annotated replies so far.

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. No mechanism for pursuance of the accepted cases had been put in place by the Department / Government. Further, the arrear cases including accepted audit observations were not available with the office of the Commissioner, Excise and Taxation Department. In the absence of a suitable mechanism, the Department could not monitor the recovery of accepted cases. The position has been elaborated in Chapter-III of this Audit Report.

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

### 1.10 Audit Planning

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

During the year 2012-13, there were 560 auditable units, of which 244 units were planned and 241 units had been audited, which is 43 *per cent* of the total auditable units. Due to critical shortage of staff three planned units could not be audited. The details are shown in the **Appendix-I**.

Besides, the compliance audit mentioned above, one performance audit was also taken up to examine the efficacy of the tax administration of these receipts.



## 1.11 Results of audit

### Position of local audit conducted during the year

Test check of the records of 241 units of sales tax / Value Added Tax, State Excise, Motor Vehicles, Goods and Passengers, Forest Receipts and other Departmental offices conducted during the year 2012-13 showed under assessment / short levy / loss of revenue aggregating ₹1,023.30 crore in 780 cases. During the course of the year, the Departments concerned accepted under assessment and other deficiencies of ₹779.17 crore involved in 516 cases which were pointed out in audit during 2012-13. The Departments collected ₹266.53 crore in 183 cases during 2012-13, pertaining to the audit findings of previous year.

It was noticed that the Himachal Pradesh Government had raised a loan of ₹3,371.30 crore during 2012-13 which consisted of internal debt ₹3,239.48 crore from various Corporations, General / Life Insurance Corporations, National Co-operative Development Corporation etc. and ₹131.82 crore from the Central Government as loans and advances. The recoveries pointed out by audit were about 30 *per cent* of the total loan borrowed by the Government during 2012-13. Had the recoveries as pointed out by audit been made by the Government / departments, the burden of liability of loans amounting to ₹1,023.30 crore could have been reduced.

## 1.12 Coverage of this Report

This Report contains 30 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years, which could not be included in earlier reports) including one Performance audit on '*Levy and collection of Passengers and Goods Tax*', involving financial effect of ₹781.44 crore.

The Departments / Government have accepted audit observations involving ₹252.96 crore out of which ₹241.07 crore had been recovered. The replies in the remaining cases have not been received (November 2013). These are discussed in succeeding Chapters II to VII.

## CHAPTER-II TAXES/ VAT ON SALES, TRADE ETC.

### 2.1 Tax administration

Sales Tax/Value Added Tax laws and rules framed thereunder are administered at the Government level by the Principal Secretary (Excise and Taxation). The Excise & Taxation Commissioner (ETC) is the head of the Excise and Taxation Department who is assisted by one Additional ETC, one Joint ETC, eight Deputy ETCs, 14 Assistant ETCs and 69 Excise & Taxation Officers (ETOs). They are assisted by Excise and Taxation Inspectors and other allied staff for administering the relevant Tax laws and rules.

### 2.2 Results of audit

In 2012-13, test check of the records of 12 units relating to VAT/Sales tax assessments and other records showed underassessment of tax and other irregularities involving ₹109.71 crore in 215 cases, which fall under the following categories as given in **Table -2.1**:

**Table -2.1**

Sr. No.	Categories	₹ in crore)	
		Number of cases	Amount
1.	Under-assessment of tax	106	25.33
2.	Acceptance of defective statutory forms	14	55.36
3.	Evasion of tax due to suppression of sales / purchase	06	0.18
4.	Irregular / incorrect / excess allowance of ITC	53	11.81
5.	Other irregularities	36	17.03
<b>Total</b>		<b>215</b>	<b>109.71</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹29.20 crore in 91 cases which were pointed out in audit during the earlier years. An amount of ₹13.95 crore was realised in 48 cases during the year 2012-13.

A few illustrative cases involving ₹33.83 crore are discussed in the following paragraphs.



## 2.3 Allowance of Input Tax Credit (ITC)

### Introduction

Input tax is the tax which a dealer pays on his local purchases of business inputs such as the goods that he purchases for resale, raw materials, capital goods as well as other inputs for use directly or indirectly in his business.

As per section 11 (3) of the Himachal Pradesh Value Added Tax Act, 2005 as amended inter-alia provides that the input tax credit which a purchasing registered dealer may claim, in respect of taxable sales made by him during the tax period, shall be:

- i. the amount of input tax paid or payable by such purchasing dealer to the selling registered dealer, on the turnover of purchases of such goods as have been sold by him during the tax period and
- ii. calculated and allowed as provided in this section and subject to such other conditions as may be prescribed.

An audit on 'Allowance of Input Tax Credit' covering assessment made during the period from 2008-09 to 2011-12 was conducted between June 2012 and March 2013 through test check of records of eight<sup>1</sup> Assistant Excise and Taxation Commissioners (AETCs) out of 14 and Excise and Taxation Officers (ETOs) under them between June 2012 and March 2013. The records were examined to ascertain whether the system for allowance of ITC is satisfactory and the provisions of the Act and Rules are followed by the various assessing authorities of the Department. The following are the audit findings:

### 2.3.2 Excess allowance of ITC

Under Section 11 (3) of the HPVAT Act 2005, ITC shall be allowed to the extent of the amount of input tax paid by the purchasing dealer on the purchase of taxable goods made by him in the State, from a registered dealer. As per notification of May 2007, the amount of input tax credit shall be admissible to a dealer on the purchase value of the goods sold by him during the tax period. Section 19 of the Act *ibid* further provides that if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one *per cent* on the tax due for a period of one month and at the rate of one and a half *per cent* per month thereafter, till the default continues.

Audit scrutiny between June 2012 and March 2013 in respect of eight AETCs<sup>2</sup>, further showed that Assessing Authorities (AAs) while assessing the annual returns of 119 dealers for the tax periods 2007-08 and 2010-11, allowed ITC by adopting different methods. However, on the basis of proportion of local purchases to the total purchases, closing balances of these dealers were aggregated to ₹75.50 crore during the tax periods out of purchases made from

<sup>1</sup> BBN-Baddi, Bilaspur, Chamba, Kangra at Dharamsala, Shimla, Sirmour at Nahan, Solan and Una

<sup>2</sup> AETCs BBN-Baddi, Bilaspur, Chamba, Kangra at Dharmshala, Shimla, Sirmaur at Nahan, Solan and Una

the registered dealers within the State during those years on which no ITC was allowable. The AAs while allowing ITC of ₹1.41 crore on closing stock had also deferred the tax liability of the assesseees to that extent which was otherwise recoverable for the tax periods on the date of assessment. This resulted in excess allowance of ITC amounting to ₹2.13 crore including interest of ₹72.30 lakh on it.

### **2.3.3 Non-reduction of ITC on discounts/rebates/incentive received**

Rule 17 of the HP VAT Rules, provides for deduction, for a registered dealer, from gross turnover of the amount allowed as cash discounts provided such discount is in accordance with regular trade practice. The deduction under this clause shall be claimed only if the person is in possession of all copies of tax invoice or retail invoice. The discounts/rebates/incentives received by a dealer lower the purchase price. Therefore, this is required to be exhibited in the trading account and such incentives received on local purchases will cause decrease in tax paid on this account.

Audit scrutiny of assessment records between June 2012 and March 2013 of eight AETCs showed that 27 dealers had received rebates/ incentives/discounts to the tune of ₹2.41 crore on local purchases, for the tax periods 2005-06 to 2010-11 and was exhibited in their profit and loss accounts. The concerned AAs did not notice it during assessment and allowed proportionate ITC on ₹2.41 crore to the dealers. This resulted in excess allowance of ITC of ₹30.12 lakh. Besides, interest of ₹17.46 lakh was also leviable.

### **2.3.4 Allowance of ITC without List of purchases (LP-I)**

Section 11(2) of HP VAT Act 2005, provides that the purchasing dealer availing of the input tax credit shall maintain the tax invoices, the registers and the books of accounts in the manner as may be prescribed. Further, Rule 41 of the HP VAT Rules provides that every registered dealer shall append to his return the lists of sales and purchases in Form LS-I and LP-I as specified in return in Form VAT-XV.

Audit scrutiny between June 2012 and March 2013 of all test checked eight units showed that Form VAT-XV had been submitted by the dealers for the tax years 2006-07 to 2010-11 but the purchases (LP-I) had not been appended with the returns. Of these, in four AETCs<sup>3</sup>, audit further noticed that in 53 cases, the AAs had accepted the incomplete returns i.e. without LP-I and allowed ITC amounting to ₹4.01 crore during assessments. As the returns were filed by the dealers without lists, the credit of input tax was liable to be disallowed which was not done by the AAs. Thus, it was very difficult to verify in audit the authenticity of the claims of ITC or tax deposited / assessed in the absence of lists of description / nomenclature of goods purchased / sold. This resulted in irregular allowance of ITC to that extent causing loss to State exchequer.

<sup>3</sup> AETCs: Kangra at Dharamshala, Shimla, Solan and Una

### 2.3.5 Irregular allowance of ITC on liquor

VAT is a multi-stage taxation where goods manufactured by an entity pass to the consumers through various stages and are taxed at every stage after providing set-off of tax paid at earlier stages. The goods *viz. petroleum products, diesel and liquor* have been kept out of the purview of the VAT. Section 6 (1) (c) of HP VAT Act also provides for levy of tax on these goods at first point of sale as specified in the second column of schedule 'D'.

Test check (between September 2012 and March 2013) of assessment records of three AETCs<sup>4</sup>, showed that in four cases, for the tax periods 2005-06 to 2009-10, AAs had allowed ITC of ₹44.85 lakh to the units who were manufacturing liquor. The fact that liquor was taxable at first stage and was kept out of the purview of ITC, escaped their notice. Thus, irregular allowance of ITC on manufacturing of liquor resulted in under assessment of revenue of ₹92.58 lakh, inclusive of interest of ₹47.73 lakh.

### 2.3.6 Allowance of ITC without tax invoices

Section 11(7)(k) of the HP VAT Act read with Rule 20 and 25 of the HP VAT Rules provides that ITC shall be disallowed where tax invoice is not available with the registered dealer. In case, the original tax invoice has been lost, destroyed or mutilated, a registered dealer shall make an application to the appropriate AA along with the duplicate copy of tax invoice issued to him by the selling registered dealer and furnish an Indemnity Bond in Form-VII for the amount equal to the amount of ITC claimed under such invoice. AA shall cross check the transaction and after being satisfied about the genuineness of the transaction, allow the claim by an order passed in this regard.

Test check of the records of the AETC, BBN-Baddi between September and October 2012, showed that in one case the AA allowed (July 2011) ITC of ₹1.69 crore for the tax periods 2006-07 to 2007-08 without the original tax invoices. The original tax invoices were reportedly burnt in fire (June 2009) as stated in affidavit submitted by the dealer. The AA did not follow the proper procedure as laid down in the Rules *ibid* and also failed to give circumstantial evidences. AA had made contradictory observation of verifying the original invoices during assessment which were burnt two years ago and allowed ITC without obtaining Indemnity Bond in Form-VII. Thus, the assessment not only became doubtful but also resulted in irregular allowance of ITC of ₹3.19 crore including interest of ₹1.50 crore.

### 2.3.7 Allowance of ITC on manufacturing / sale of tax free goods

Section 11(7) of the HP VAT Act, provides that no ITC shall be claimed by a purchasing dealer and this shall not be allowed to him for tax collected on the purchase of goods used in the manufacture or processing or packing of goods, declared tax free.

<sup>4</sup> AETCs BBN-Baddi, Kangra at Dharmshala and Sirmaur at Nahan

Test check of records of four AETCs<sup>5</sup> between July 2012 and March 2013, showed that AAs had assessed the cases of five dealers at the GTO of ₹27.08 crore including tax free turnover of ₹4.67 crore and allowed ITC of ₹52.08 lakh on the full purchases for the tax period between 2005-06 and 2010-11. Audit however, noticed that allowance of ₹52.08 lakh as against ₹45.94 lakh allowable after deducting credits on goods utilized for manufacturing of tax free goods, resulted in excess ITC of ₹6.14 lakh besides interest of ₹5.28 lakh.

### 2.3.8 Non-maintenance of the database regarding input tax credit

A reliable database of ITC with the department is not only a necessity but also of vital importance for good decision making and effective control over its regularization from year to year during assessments and other scrutiny etc.

There was no database regarding input tax credit maintained either at the ETC level or at district levels. In the absence of the database, it was impossible to check ITC availed / allowed to the dealers since inception of the VAT. In order to create an efficient and transparent tax administration system, the department should develop a software tool to check fraudulent/false claims ITC.

The above points were reported to the Department and the Government between July 2012 and May 2013; reply has not been received (November 2013).

### Conclusion

Input Tax Credit allowance is an important element in the administration of the Himachal Pradesh Value Added Tax Act, 2005 of the State. In the absence of a clear and unambiguous formula for calculation of ITC, credits were being allowed by adoption of different methods by the AAs, resulting in excess allowance of ITC and loss of revenue. Non-adherence to various provisions of the Act while allowing ITC also led to leakages of revenue which remained undetected.

<sup>5</sup> AETCs Kangra at Dharmshala, Sirmour at Nahan, Solan and Una

## 2.4 Incorrect deduction of cost of material

As per Sub-section 2 (v) of the Himachal Pradesh Value Added Tax (HPVAT) Act 2005, sale includes transfer of property in goods involved in execution of works contracts. As per ETC's instructions of December 2008 if the material is partly or wholly supplied by the contractee and value thereof is set off against the payment of contractors, the value of the material so supplied shall not be deducted from the Gross Turnover (GTO) for the purpose of assessment of tax which has also been judicially upheld in two cases<sup>6</sup> by the Hon'ble Supreme Court. Further, if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one *per cent* on the tax due for a period of one month and at the rate of one and a half *per cent* per month thereafter, till the default continues.

Audit noticed between July 2012 and February 2013 from the assessment records three Assistant Excise and Taxation Commissioners (AETCs)<sup>7</sup> that the Assessing Authorities (AAs) finalised the assessments of 15 contractors for the years 2005-06 to 2010-11 between July 2009 and September 2012. The AAs allowed deduction of ₹28.53 crore from the GTO on account of material supplied by the Departments to them for the execution of the Departmental works. The deduction so allowed was irregular as supply of the material by the Departments to the contractors tantamounted sale. This resulted in underassessment of the tax of ₹1.41 crore on which interest of ₹83.54 lakh was also leviable.

On this being pointed out (between October 2012 and March 2013) in audit, the ETC stated (November 2013) that five cases had been reassessed and additional demand of ₹64.65 lakh was created out of which ₹13,100 had been recovered, the remaining cases were under process. The AETCs had also been directed to recover the balance amount immediately. The reply of the Government has not been received (November 2013).

## 2.5 Application of incorrect rate of tax

**2.5.1** As per the provisions of HPVAT Act, 2005 and rules framed there under, tax is leviable on sales made by a dealer as per Schedule-A under Section 6. Schedule A further provides that tax shall be levied at the prescribed rates at every point of sale in respect of goods specified therein. Section 19 of the Act *ibid* further provides that if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one *per cent* on the tax due for a period of one month and at the rate of one and a half *per cent* per month thereafter, till the default continues.

Audit noticed in two AETCs<sup>8</sup> between September 2012 and March 2013 that 10 dealers had made intra state sales valued at ₹16.69 crore which was taxable at the rate of 12.50 *per cent*. The AAs finalised the assessments of the dealers for

<sup>6</sup> In case of N. M. Goel and Co. versus Sale Tax Officer Rajnandgaon and another (1988) 72 STC SC 368 and Rashtriya Ispat Nigam Ltd. versus State of Andhra Pradesh (1998) 109 STC SC 425

<sup>7</sup> Kangra: Two contractors, Shimla: 12 contractors and Solan: one contractor

<sup>8</sup> AETCs BBN-Baddi: seven dealers: ₹1.96 crore and Nahan: three dealers: ₹52.11 lakh



the years 2005-06 and 2010-11 between August 2010 and February 2012. Audit scrutiny showed that the AAs assessed the sales of ₹16.69 crore at the rate of four or five *per cent* instead of correct rate of 12.50 *per cent*. These omissions resulted in short finalisation of tax of ₹2.48 crore including interest of ₹1.08 crore.

Audit reported the matter to the Department and the Government between November 2012 and April 2013; the department stated (September 2013) that in case of two dealers an additional demand of ₹20.17 lakh had been created out of which ₹7.65 lakh was recovered and remaining cases were under process or in appeal. The reply of the Government has not been received (November 2013).

**2.5.2** As per the transitional provisions of HPVAT Act, 2005 and rules framed thereunder, a manufacturer who was availing partial exemption under the HPGST Act may continue to avail partial exemption for the unexpired period under the Act *ibid*. After expiry of incentive period, tax as provided under Section 6 of the Act is leviable. Besides, interest under Section 19 of the Act is also leviable at the prescribed rates on tax due till the default continues.

Audit noticed in two AETCs<sup>9</sup> between July 2012 and September 2012 that four dealers made intra state sales amounting to ₹9.66 crore taxable at the rate of 3.125 and four *per cent*. Audit scrutiny showed that the AAs finalised the assessments of the above dealers for the years 2005-06 to 2008-09 between April 2011 and October 2012. The AAs had wrongly assessed the sales at the rate of one *per cent* instead of 3.125 or four *per cent* applicable in assessments of dealers though concessional rate was applied even after the expiry of eligibility. These omissions resulted in short realization of tax of ₹43.29 lakh including interest ₹22.37 lakh.

**2.5.3** Similarly, in another case of AETC BBN- Baddi, the AA had charged concessional rate of one percent on the taxable turnover (TTO) of ₹44.63 crore against the determinable amount of ₹44.28 crore on 'C' forms. Thus, turnover of ₹34.79 lakh had escaped to be taxed at general rate of tax instead of one per cent. Charging of incorrect rates of tax resulted in short levy of tax of ₹8.34 lakh inclusive of interest of ₹3.99 lakh.

Audit reported the matter to the Department and the Government between August 2012 and October 2012, the Department stated (September 2013) that in two cases, an additional demand of ₹2.85 lakh was created out of which ₹0.23 lakh had been recovered and remaining cases were under process. The reply of the Government has not been received (November 2013).

## 2.6 Non / short levy of interest and penalty

**2.6.1** Under section 19 of the HPVAT Act 2005, if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one *per cent* on the tax due for a period of one month and at the rate of one and a half *per cent* per month thereafter, till the default continues. Besides, interest under the CST Act, is also leviable at the prescribed rates on the unpaid amount of tax.

<sup>9</sup> AETCs Bilaspur: one dealer: ₹1.99 lakh and Solan: three dealers: ₹41.54 lakh

Audit noticed between December 2012 and March 2013 from assessment records of AETCs Kangra and Nahan that the AAs, while finalising the assessments of seven dealers for the years 2005-06 to 2010-11, between April 2011 and March 2012, created additional tax demands of ₹10.01 lakh. Audit observed that in these cases, the AAs did not levy interest of ₹4.18 lakh on the additional demand created up to the date of assessment. Further, the AETC Nahan, assessed the tax amounting to ₹10.44 lakh and levied interest of ₹9.71 lakh instead of ₹11.06 lakh chargeable up to March 2012. This resulted in short levy of interest of ₹1.35 lakh. The omissions resulted in short realization of interest amounting to ₹5.54 lakh.

On this being pointed out (between March and April 2013) in audit, the ETC stated (November 2013) that cases had been reassessed and additional demand of ₹13,067 was created and recovered. The concerned AETCs had also been directed to dispose off the remaining cases and recover the amount. The reply of the Government has not been received (November 2013).

**2.6.2** Under Section 16 (8) of the HPVAT Act 2005, if a dealer has maintained false or incorrect accounts with a view to suppressing his sales, purchases or stocks of goods, the Commissioner or any person appointed to assist him under Sub-Section (1) of Section 3 may, after affording such dealer a reasonable opportunity of being heard, direct him to pay, in addition to the tax, by way of a penalty equal to twice the amount of tax to which he is assessed or is liable to be assessed.

Audit scrutiny of the assessment records of AETC Kangra, between December 2012 and February 2013, showed that a dealer had suppressed the purchases of ₹51.66 lakh and the AA while re-assessing (October 2011) the case for 2010-11, raised an additional demand of tax of ₹2.84 lakh and levied penalty of ₹42,621 instead of ₹5.68 lakh as provided in the Act. This resulted in short levy of penalty of ₹5.26 lakh and foregone revenue to that extent.

Audit reported the matter to the Department and the Government in March 2013. Their replies have not been received (November 2013).

## **2.7 Wrong allowance of concessional rate of tax**

The Excise and Taxation Department, Government of Himachal Pradesh vide notifications dated July 1999 and June 2009 had allowed concessional rate of Central Sales Tax at one *per cent* of the taxable turnover of such goods manufactured for inter state sale / trade by the dealers running industrial units in Himachal Pradesh and registered with Excise and Taxation Department of HP Government. One of the conditions for availing the concession was that unit located in industrially backward areas should have employed 80 *per cent* of its total manpower from amongst the bonafide Himachalis.

Audit test checked the assessment records of two AETCs<sup>10</sup> and noticed that while finalising between July 2010 and December 2012 assessments of 10 different manufacturing units for the years 2005-06 to 2009-10, the AAs had applied the concessional rate of tax of one *per cent* on inter state sale of ₹279.40

<sup>10</sup> AETCs: Kangra at Dharamsala and Una

crore to these units. The units, however, had employed bonafide Himachalis between 70 and 78.6 *per cent* against the mandatory 80 *per cent*, in their industrial units located in industrially backward areas. Thus, allowance of concessional rate of one *per cent* to the units instead of applicable rates of 2 to 4 *per cent* without satisfying the condition *ibid* was irregular. This resulted in under assessment of tax of ₹11.50 crore including interest of ₹5.53 crore.

On this being reported to the Department and the Government between August 2012 and March 2013 in audit the Department stated (September 2013) that all cases were under process. Further reply of the Government has not been received (November 2013).

## 2.8 Non-levy of tax on entry of goods

Section 3 of the Himachal Pradesh Tax on Entry of Goods into Local Area Act, 2010, provides for levy and collection of tax at the rate of five *per cent* of the cost of cement as well as other goods to be used in the course of business of a dealer, for work contracts of hydro-power projects e.g. generation, transmission and distribution executed by private entities etc., which enter the local areas of Himachal Pradesh from places outside the State, as specified in Schedule-II of the Act.

Audit noticed (March 2013) from the assessment records of Excise and Taxation Officer (ETO), Kinnaur at Reckong-Peo that AA had finalised the assessments of a dealer for the years 2010-11 and 2011-12 between June and October 2012. Audit scrutiny showed that the assessee had brought heavy machineries valuing ₹25.73 crore in Himachal Pradesh on 'F'-forms from Madhya Pradesh for execution of 1000MW Karcham Wangtoo Hydro Electric Project for generation of electricity. The department, however, had not levied entry tax of ₹1.29 crore at the rate of 5 *per cent* leviable on the value of these goods. This resulted in non-realisation of tax to that extent besides interest which was also leviable on tax due.

After being pointed out in audit, the ETO (March 2013) stated that action would be taken as per provisions of Act / Rules after re-examination of the case. Further reply has not been received (November 2013).

The case was brought to the notice of the Department / Government in April 2013; their replies have not been received (November 2013).

## 2.9 Evasion of tax due to acceptance of invalid, duplicate and defective 'C'-forms

The 'C' Form is issued by a purchasing dealer in two copies. The copy marked 'original' is enclosed by the selling dealer with his return and the copy marked 'duplicate' is retained by purchasing dealer in his records. It has also been judicially held<sup>11</sup> that production of original copy of Form 'C' for claiming

<sup>11</sup> Commissioner Sale Tax v/s M/s Prabhu Dayal Prem Narayan (1988) 71 STC (SC) and Delhi Automobiles Private Limited versus Commissioner of Sales Tax (1997) 104 STC 75 (SC)



concessional rate of tax is mandatory to prevent the form being misused for the commission of fraud and collusion with a view to evade payment of tax.

Test check of the records of four AETCs<sup>12</sup> (between July 2012 and March 2013) showed that while finalising the assessments of 15 dealers between August 2010 and July 2012 for the assessment years 2006-07 to 2009-10, the AAs irregularly allowed concessional rate of tax on interstate sales valued at ₹10.19 crore without verifying the declaration forms produced in support of the transactions which were either duplicate / incomplete or defective copies of 'C'-forms as detailed in **Appendix-II**. These forms were liable to be rejected at the time of assessment by the concerned AAs as per rules. This resulted in short levy of tax of ₹78.56 lakh, including interest of ₹31.55 lakh.

On this being pointed out (between August 2012 and March 2013) in audit the Department stated (September 2013) that in six cases re-assessment had been completed and additional demands aggregating to ₹3.19 lakh were created / recovered (May and August 2013) whereas nine cases were under process. As in six re-assessed cases either assessment orders or necessary documents were not furnished to audit, no conclusion could be arrived at. Further reply of the Government has not been received (November 2013).

## 2.10 Non-levy / demand of tax

As per Section 21 of the HPVAT Act, 2005, read with Rules 69 and 70 of HPVAT Rules, 2005, provide that after assessment of tax and imposition of penalty etc. tax demand notice for the amount payable, shall be served upon the dealer specifying the date, not less than fifteen days and not more than thirty days from the date of service of notice and the dealer has to furnish receipted challan in proof of such payment, before the AA within the time specified therein. If dealer fails to pay the tax due by the prescribed date, interest under Section 19 of the Act *ibid*, is also leviable at the prescribed rates on tax due, till the default continues.

Audit noticed between September and October 2012 from the assessment records that the AETC, BBN-Baddi had finalised (July 2011) the assessment of a dealer for the year 2009-10 and sale of non-woven fabric (Polypropylene) amounting to ₹24.67 crore treated as exempted, whereas tax of ₹1.46 crore was chargeable at minimum rate of tax 4 *per cent*. This resulted in underassessment of tax of ₹1.46 crore including interest of ₹46.88 lakh.

Audit reported the matter to the Department and the Government between November 2012 and March 2013. The replies have not been received (November 2013).

## 2.11 Incorrect determination of turnover

As per Section 2 (v) (zd) of the HPVAT Act 2005, 'turnover' means aggregate amount of sale, purchases and parts of sales and purchases made by any dealer and includes any sum charged, on account of freight, storage, demurrage,

<sup>12</sup> AETCs BBN-Baddi (11 dealers: ₹46.61 lakh), Nahan at Sirmour (one dealers: ₹3.93 lakh), Solan (two dealers: ₹26.77 lakh) and Una (one dealers: ₹1.25 lakh)

insurance and for anything done by the dealer in respect of the goods at the time of or before delivery thereof. Schedule-A to Section 6, further provides that tax shall be levied at the prescribed rates at every point of sale in respect of goods specified therein. Further, Section 19 provides that if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rates fixed therein, till the default continues.

Audit noticed between June 2012 and February 2013 from the assessment record of three AETCs<sup>13</sup> that the AAs had finalised the assessments of five dealers between February and December 2011 for the year 2006-07 to 2009-10 and assessed gross turnover (GTO) at ₹71.10 crore as against ₹89.27 crore. Audit scrutiny further showed that the AAs did not take cognizance either of gross receipts / turnover determined lesser by assesses or assessed on lower side compared to the certified receipts. Thus, short assessment of GTO of ₹18.18 crore resulted in short levy of tax by ₹1.44 crore including interest of ₹58.94 lakh.

On this being pointed out (between July and March 2013) in audit, the ETC stated (November 2013) that additional demand of ₹15.29 lakh was created after reassessment in one case. The remaining cases were under process and the AETCs had also been directed to recover the amount immediately. The reply of the Government has not been received (November 2013).

## 2.12 Incorrect exemption of tax due to misuse of declaration Forms 'F'

Section 6-A of the CST Act, read with Rule 12(5) of the CST (R&T) Rules, provides that exemption of tax to a registered dealer is granted in case of branch transfer / consignment sale, provided these are supported by a Declaration 'F'-form. Every dealer, who in the course of interstate trade or commerce, sells to a registered dealer, goods of the classes, specified in the certificate of registration of the purchasing dealer, shall be liable to pay tax at the rate of 10 *per cent* or at the rate applicable in the State under the GST Act, whichever is higher up to March 2007 and at the rate applicable in the State with effect from 1<sup>st</sup> April 2007 as provided under Section 8 of the CST Act read with Rule 12 of the CST (R&T) Rules. Besides, interest at the prescribed rates is also leviable on the unpaid amount of tax till the default continues.

Scrutiny of records of four AETCs<sup>14</sup> between July 2012 and March 2013 showed that while finalising the assessments in respect of eight dealers between May 2011 and March 2012 for the assessment years 2005-06 to 2009-10, the AAs allowed incorrect exemption on transfers of stock amounting to ₹10.27 crore against 'F'-forms, which were either duplicate, incomplete, covering transactions of more than one calendar month / year or addressed to other branches which were not specified in the registration certificate. The forms were liable to be rejected at the time of assessment but the concerned AAs did not scrutinise them properly and allowed the exemption. This resulted in non-

<sup>13</sup> AETCs BBN-Baddi (one dealers: ₹98.10 lakh), Chamba (two dealers: ₹0.12 crore), and Solan (two dealers: ₹0.35 crore).

<sup>14</sup> BBN-Baddi, Kangra, Solan and Una

levy of tax of ₹1.16 crore including interest of ₹0.52 crore as detailed in **Appendix-III**.

Audit reported the matter to the Department and the Government between November 2012 and March 2013. The replies have not been received (November 2013).

## CHAPTER-III STATE EXCISE

### 3.1 Tax administration

The Principal Secretary (Excise and Taxation) is the administrative head at Government level. The Department is headed by the Excise and Taxation Commissioner (ETC). The Department has been divided in three Zones<sup>11</sup> which are headed by the Additional ETC (South Zone), Deputy ETCs of North Zone and Central Zone. Besides, 22 Excise and Taxation Inspectors under the control of the Assistant Excise and Taxation Commissioners (AETCs) of the respective districts, are deputed to oversee and regulate levy / collection of excise duties and allied levies.

### 3.2 Results of audit

In 2012-13, test check of the records of seven units relating to excise duty, license fee receipts etc., showed non / short realisation of excise duty / license fee / interest / penalty and other irregularities involving ₹4.24 crore in 48 cases, which fall under the **Table 3.1**:

**Table-3.1**

(₹ in crore)

Sr. No.	Categories	Number of cases	Amount
1.	Non / short realisation of excise duty	9	1.04
	Non / short recovery of license fee / interest / penalty	21	0.86
2.	Other irregularities	18	2.34
<b>Total</b>		<b>48</b>	<b>4.24</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹4.50 crore in 51 cases which were pointed out in earlier years. An amount of ₹3.08 crore was recovered in 27 cases during the year 2012-13.

A few illustrative cases involving ₹3.57 crore are discussed in the following paragraphs.

<sup>11</sup> South Zone (Shimla, Solan, Sirmour, Kinnaur and Spiti area), North Zone (Chamba, Kangra and Una) and Central Zone (Bilaspur, Hamirpur, Kullu, Lahaul area and Mandi)

### 3.3 Non / short recovery of State Excise Duty and License Fee

#### Introduction

Levy and collection of duties and fees on production, manufacture, possession, storage, transport, purchase and sale of liquor by distilleries / breweries, bonded warehouses, bottling plants are governed by the Punjab Excise Act, 1914 and rules framed thereunder, as applicable to Himachal Pradesh with amendments. Excise and Taxation Department is responsible for collection of excise duty, license fee, brand fee, import / export fee, overtime fee, interest and penalty. The Excise and Taxation Commissioner-cum-Financial Commissioner (Excise) Himachal Pradesh, reserves the rights to sell all or any of the licenses by allotment or by auction or by private contract or by calling tenders or negotiations or by draw of lots or by renewal or by any other arrangement which he may consider expedient in the interest of revenue. For this purpose the department makes necessary announcements for excise allotment / renewal etc. every year setting forth the terms and conditions to give effect to grant of licenses, determining the license fee etc.

An audit on 'Non / Short recovery of State Excise Duty and License Fee' covering the period from 2010-11 to 2011-12 was conducted between May 2012 and March 2013 through test check of records in the offices of the Excise and Taxation Officer (ETO) Kinnaur and seven<sup>2</sup> out of eleven AETCs. The following are the audit findings:

#### 3.3.2 Non-levy of State Excise Duty and License Fee

##### 3.3.2.1 Non-levy of additional fee on short lifting of Minimum Guaranteed Quota

Para 4.3 of the Excise Announcement 2011-12 provides that every licensee shall be required to lift minimum guaranteed quota (MGQ) as fixed for each vend. Failing this he shall still be liable to pay license fee based on MGQ. Besides, additional fee of ₹20 per proof liter (PL) shall be paid by the licensee on the unlifted quantity of liquor falling short of 80 *per cent* of MGQ. The AETC / ETO shall review the position of MGQ every month and in case the licensee is unable to lift 80 *per cent* of MGQ by 15<sup>th</sup> of March, he shall proceed to recover the additional license fee.

Audit test checked the M-2 registers<sup>3</sup> between May 2012 and February 2013 of three AETCs and noticed that 27 licensees<sup>4</sup> had lifted 3,98,720.405 pls of liquor against the MGQ of 5,62,090.002 pls which was less than 80 *per cent* (4,49,672.002 pls) of MGQ fixed by the department during 2011-12. This resulted in short lifting of 50,951.597 proof liters for which additional fee of ₹10.19 lakh though payable was not demanded by the concerned AETCs. The

<sup>2</sup> BBN at Baddi, Kangra, Mandi, Shimla, Sirmour, Solan and Una

<sup>3</sup> A register showing the quantity of Foreign Spirit including IMFL and CL issued for sale, amount of additional license fee payable and amount of additional license fee recovered during the month is maintained.

<sup>4</sup> Mandi: 13 licensees, Shimla: seven licensees and Una: seven licensees

mistake escaped the notice of the ETC also, to whom the 'Annual Lifting and Consumption Statements' were furnished with the returns.

On this being pointed out (between May 2012 and February 2013), the Joint ETC, Shimla intimated (May 2013) that ₹1.01 lakh had been recovered by the AETC, Una from the seven licensees and deposited in the Government treasury. Further report of recovery is awaited (November 2013).

### 3.3.2.2 Non-levy of excise duty due to non-invoking of provisions of bond

Rules 21 to 23 of Himachal Pradesh Bonded Ware House (HPBWH) Rules, 1987 provide that liquor may be removed from a warehouse (1) under bond and (2) on payment of duty within the state or outside the state. In case of issue of liquor under bond, the licensee shall execute a bond in form L-37 to deliver the spirit at a particular place or destination and shall furnish proof of his having done so in form L-38, before the bond can be discharged. Notification of November 1965, issued by the department provides that if the proof is not produced within the specified period, i.e. reasonable time not exceeding two months unless the omission is satisfactorily explained, the Collector shall call upon the manager to deposit the amount specified in the bond executed by him in respect of the consignments.

Scrutiny of L-38 registers<sup>5</sup> of three AETCs<sup>6</sup> between July 2012 and March 2013 showed that 11 sanctions authorizing export in-bond of 43,537.50 Pls of IMFL, 76 sanctions of 5,62,353 bulk litres (Bl) of beer and two sanctions of 40,000 Bls of Extra Neutral Alcohol (ENA) were granted in favour of two distilleries and one brewery<sup>7</sup> on execution of a bond in form L-37. The licensee was required to furnish certificates in form L-38 of arrival of IMFL / Beer / ENA at specified destination within specified time limit, which had expired during June 2011 and May 2012. The certificates in form L-38 were awaited and the provisions of the bond were not invoked till March 2013, despite the fact that limitation period for procuring certificate of arrival had already expired. As per provisions of Rules, the Collector was bound to collect the amount of excise duty specified in the bond but the same was not done. This resulted in non-recovery of excise duty amounting to ₹99.24 lakh.

On this being pointed out (between July 2012 and March 2013), the AETCs intimated that after reviewing the cases, action would be taken as per the provisions of the Act / Rules. Further report on recovery and reply has not been received (November 2013).

### 3.3.2.3 Non-accountal of Rectified Spirit / Extra Neutral Alcohol and Matured Malt Spirit

The Punjab Distillery Rules, 1932 as also applicable in Himachal Pradesh, provide for maintenance of permit register (D-13) and spirit receipt register

<sup>5</sup> L-38 is a certificate of proof of arrival of IMFL / beer at the specified destination within specified time limit.

<sup>6</sup> Mandi, Sirmour and Una

<sup>7</sup> M/s Carlsberg Brewery Tokio, Goverdhan Bottling Plant, Galu and Ranger Brewery Ltd. Mehatpur



(D-13 A) through which the department could exercise various checks on the receipt and disposal of spirit and liquors.

Audit cross checked the permit registers with that of spirit receipt register (D-13 A) (between January and March 2013) maintained in the office of the two AETCs<sup>8</sup> and noticed that in two bonded ware houses<sup>9</sup>, four permits containing 81,860 proof liters of RS / ENA and MMS (**Appendix-IV**) had neither been cancelled in permit register nor accounted for in spirit receipt register. Thus, 81,860 proof liters of spirits involving excise duty of ₹19.26 lakh was not realised, for which no reasons were on record.

On this being pointed out (between January and March 2013), the AETCs had intimated that after reviewing the cases, action would be taken as per the provisions of the Act / Rules. Further report on recovery is awaited (November 2013).

### **3.3.3 Non-recovery of State Excise Duty and License Fee**

#### **Non-recovery of fixed fee due to not opening of L-13 vend**

Para 6.10 of the Excise Announcement for the years 2010-11 and 2011-12 provides that Country Liquor suppliers were required to open L-13 vend (wholesale vends) in each of the district allotted to them on payment of prescribed license fees. Rules further provide that the annual license fee of L-13 has been fixed at ₹80,000 and ₹1,00,000 for the years 2010-11 and 2011-12 respectively.

Audit test checked the records of L-13 vends between July 2012 and October 2012 of two AETCs<sup>10</sup>, and found that three licensees<sup>11</sup> engaged in manufacturing of CL had not opened L-13 vends in the districts allotted to them. Therefore, fixed fee of ₹8.60 lakh was recoverable from the licensees for not opening of vends during the years 2010-11 (two vends) and 2011-12 (seven vends). This was neither demanded by the department nor deposited by the suppliers, which resulted in non-recovery of fixed fee of ₹8.60 lakh.

On this being pointed out (between July 2012 and October 2012), the ETC stated (August 2013) that out of ₹ 8.60 lakh an amount of ₹5.60 lakh had been recovered from two licensees, and Excise & Taxation Inspector incharge of BBN Baddi distillery had been directed to recover the balance amount of fixed fee from the licensee. Further report on recovery and reply has not been received (November 2013).

<sup>8</sup> Kangra and Mandi

<sup>9</sup> M/s Bindal Associate, Chhanni and Goverdhan Bottling Plant, Galu

<sup>10</sup> BBN Baddi and Sirmour

<sup>11</sup> BBN Baddi: two licensees and Sirmour: one licensee

### 3.3.4 Short recovery of State Excise Duty and License Fee

#### 3.3.4.1 Short recovery of bottling license fee

Rule 9.5 of the Punjab Distillery Rules 1932 (PDR) as applicable to Himachal Pradesh, stipulates that the licensee shall pay license fee at the prescribed rates on the units of 750 milliliters (mls) of CL / IMFL bottled by them. Notification of March 2011, issued under the PDR further provides that licensee of Distilleries and Bottling Plants in Himachal Pradesh shall also pay franchise fee on the bottling of brands of IMFS of the Distilleries and Bottling Plants situated outside the State of Himachal Pradesh. These fees shall be paid by the licensee quarterly within seven days of the expiry of each quarter.

Audit test checked the records between July 2012 and March 2013 of two AETCs<sup>12</sup> and noticed that against the recoverable amount of ₹37.15 lakh, on account of bottling license fee, from three licensees<sup>13</sup> during 2010-11 and 2011-12 a sum of ₹21.69 lakh only had been recovered. Steps to recover the balance license fee were not taken by the department. This resulted in short recovery of license fee of ₹15.46 lakh.

On this being pointed out between July 2012 and March 2013, the ETC intimated (August 2013) that an amount of ₹13.25 lakh had been recovered in respect of AETC Sirmour and efforts were being made to recover the balance amount. Further replies had not been received (November 2013).

#### 3.3.4.2 Low yield of spirit from molasses

As per the norms fixed under Rule 37 read with Rule 35 of the Punjab Distillery Rules 1932, as applicable to Himachal Pradesh, 0.373 quintal of molasses shall yield 15.391 proof liters of country spirit.

Audit noticed between November and December 2012 from the molasses receipts and issue register and spirit issue register that a distillery<sup>14</sup> in Una district used 52,095 quintals of molasses for manufacture of rectified spirit (RS) during 2011-12. Against the yield of RS of 21,49,582.16 proof liters as per prescribed norms, the actual yield was shown as 19,01,468 proof liters. Thus, 2,48,114.16 proof liters of RS was short produced for which no reasons were on record. This resulted in potential loss of revenue of ₹24.81 lakh on short production of rectified spirit.

On this being pointed out (December 2012), the department intimated (August 2013) that after reviewing the case action would be taken as per the provisions of the Act / Rules. Further report on recovery and reply has not been received (November 2013).

<sup>12</sup> AETC Mandi and Sirmour

<sup>13</sup> M/s Goverdhan Bottling Plant, Galu, Hill view distillery, Shambhowal and Tilokson Brewery and distillery, Manthapal

<sup>14</sup> M/s Ranger Brewery Ltd. Mehatpur



### 3.3.5 Non-levy of interest on belated payment of license fee / additional license fee

Para 4.4(d) of the Excise Announcement (EA) 2011-12 provides that full monthly installments of license fee based on MGQ of liquor fixed for each vend is required to be paid by the last day of each month and last installment for the month of March shall be paid in full by 15<sup>th</sup> of March. Additional license fee of ₹2 per quart of 750 mls shall be chargeable from the licensee on country liquor (CL) and Indian Made Foreign Spirit (IMFS) before obtaining permit / pass for transportation of liquor. Para 4.5(a) further provide that if the licensee fails to pay the amount of license fee on due dates, interest at the rate of 10 *per cent* per annum up to one month and 18 *per cent* per annum thereafter shall be leviable.

Audit test checked the M-2 registers of two AETCs<sup>15</sup> between May 2012 and December 2012 and noticed that out of 251 licensees, 23 licensees had deposited license fee of ₹11.51 crore belatedly (between April 2011 and March 2012) for the years 2010-11 and 2011-12. The delay ranged between three to 180 days. They were, therefore, liable to pay interest of ₹9.19 lakh on belated payments. However, the concerned AETCs did not levy the same. This resulted in non-recovery of interest to that extent.

(ii) Audit further noticed from the license fee registers of AETC, Shimla that a licensee, of Subzi Mandi Vend, had paid additional license fee of ₹3.09 lakh instead of ₹4.96 lakh chargeable for the year 2011-12. This resulted in short recovery of Government revenue to the tune of ₹1.87 lakh.

On this being pointed out the cases (between May 2012 and December 2012), the AETCs, Una admitted the audit observations and stated (June 2013) that ₹2.35 lakh had been recovered from the licensees. Report of recovery of balance amount of interest in respect of AETC, Una and reply from AETC Shimla has not been received (November 2013).

#### 3.3.5.1 Non-recovery of interest on bottling license / franchise fee

Rule 9.5 of the Punjab Distillery Rules 1932 (PDR) as applicable to Himachal Pradesh, stipulates that the licensee shall pay license fee at the prescribed rates on the units of 750 milliliters (mls) of CL / IMFL bottled by them. Notification of March 2011, issued under the PDR further provides that licensee of Distilleries and Bottling Plants in Himachal Pradesh shall also pay franchise fee on the bottling of brands of IMFS of the Distilleries and Bottling Plants situated outside the State of Himachal Pradesh. These fees shall be paid by the licensee quarterly within seven days of the expiry of each quarter. In event of failure to pay the fee by due date, interest at the rate of 12 *per cent* per annum up to one month and if the default in payment exceeds one month, interest at the rate of 18 *per cent* per annum for the entire delay shall be payable.

Audit further test checked the D-15A register<sup>16</sup> of four AETCs<sup>17</sup> who were engaged in manufacturing of CL, and noticed that the bottling license fee and

<sup>15</sup> Shimla: 18 cases ( 2010-11=4, 2011-12=14) and Una: 5 cases

<sup>16</sup> A register wherein the details of license fee at the prescribed rates on the units of 750 milliliters (mls) of CL / IMFL bottled is maintained.

<sup>17</sup> BBN Baddi, Kangra, Mandi and Una

franchise fee of ₹3.34 crore for the years between 2008-09 and 2011-12 were payable between 7 April 2009 and 7 April 2012 but were deposited late between 7 July 2009 and 8 October 2012. The delay ranged between 10 and 616 days for which interest of ₹14.46 lakh<sup>18</sup> was leviable but had not been levied / recovered by the department. Thus, inaction on the part of the department resulted in non-recovery of Government dues to the above extent.

On this being pointed out (between July 2012 and March 2013), the AETC BBN, Baddi while accepting the audit observations stated (February 2013) that an amount of interest of ₹5.47 lakh had been recovered from the licensee. The remaining AETCs intimated that action would be initiated as per the provisions of the Act / Rules after reviewing the cases. Further report on recovery and reply has not been received (November 2013).

### **3.3.6 Non-recovery of salaries of excise establishment posted at distillery / bonded ware houses**

Rule 9.13 and 9.16 of the Punjab Distillery Rules, 1932 as also applicable in Himachal Pradesh, stipulate that the licensee shall agree to the posting of a Government Excise Establishment to his distillery for the purpose of ensuring the due observance of the Rules and for watch and ward. The licensee shall, if required by the Excise Commissioner, make into the Government treasury such payment as may be demanded on account of the salaries of the Government excise establishment posted to the distillery, but he shall not make any direct payment to any member of such establishment.

Audit cross checked the records between June 2012 and February 2013 of one brewery, three distilleries and 10 bonded ware houses with that of five AETCs<sup>19</sup> and noticed that the establishment charges amounting to ₹1.53 crore of the excise establishment posted to the distilleries / brewery / bonded ware houses had not been paid by the licensees for the period between 2008-09 and 2011-12 inspite of the fact that the AETCs, being the Drawing and Disbursing Officers, were aware of these postings. They did not take any action to raise the demand and collect the Government dues. Thus, non-claiming of establishment charges from the licensees in respect of the excise establishment, the Government deprived itself of recoverable dues of ₹1.53 crore as per details given in **Appendix-V**.

On this being pointed out between June 2012 and February 2013, the AETC, BBN-Baddi stated (February 2013) that all the AETO / ETI in charge of the distilleries had been directed to recover the amount of salary of excise staff posted in the distillery / BWH from the concerned licensees and deposit the same in government account. The remaining AETCs intimated that after reviewing the cases action would be initiated as per the provisions of the Act / Rules. Further report on recovery and reply has not been received (November 2013).

<sup>18</sup> Bottling license fee: ₹9.20 lakh and Franchise fee: ₹5.26 lakh

<sup>19</sup> BBN Baddi, Kangra, Sirmour, Solan and Una

### 3.3.7 Non-recovery of arrears of Excise Duty

The Excise Department is responsible for recovery of its dues from the defaulter licensees pertaining to its own department. If government dues cannot be recovered by the means available with the department, such arrears are certified as Arrears of Land Revenue (ALR) under the Himachal Pradesh Land Revenue Act, 1953 (Act No. 6 of 1954) administered by the collectors of the respective districts of the State. The powers of collectors were delegated to the departmental officers of the Excise and Taxation department in December 1990 and January 1993. These cases of recovery as ALR relating to other districts within the State or outside the State is to be referred to collectors (Excise) of the concerned district or collector of the concerned district of that state.

Audit scrutiny of the information supplied (between May 2012 and March 2013) by the Department showed that in 34 cases of outstanding revenue for the years 1977-78 to 2011-12 pertaining to six AETCs<sup>20</sup> involving an amount of ₹5.62 crore was recoverable from the licensees. Out of which ₹4.68 crore in 23 cases were pending for recovery as arrears of land revenue as of March 2012 and other 11 cases involving an amount ₹94.26 lakh were at different stages of action with the departmental authorities. The department had not devised any system to recover the pending arrears in a time bound manner even after lapse of 20 to 37 years.

On this being pointed out (between May 2012 and March 2013), the AETC, BBN Baddi stated (February 2013) that an amount of ₹4.00 lakh had been recovered. The remaining AETCs had intimated that after reviewing the cases, action would be taken as per the provisions of the Act / Rules. Further report on recovery is awaited (November 2013).

The above points were reported to the Government on 4 July 2013; reply has not been received (November 2013).

### 3.4 Conclusion

Excise receipt is an important source of revenue of the State Government. From the above audit observations it appeared that the department had not exercised proper control over the working of distilleries / breweries / bonded ware houses in claiming its legitimate dues from the licensees. The monitoring mechanism to regulate collection of excise revenue especially on in-bond consignments was ineffective and needed to be strengthened appropriately.

<sup>20</sup> BBN Baddi, Kangra, Mandi, Shimla, Solan and Una

## CHAPTER-IV STAMP DUTY

### 4.1 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 Himachal Pradesh and are administered at the Government level by the Principal Secretary (Revenue). The Inspector General of Registration (IGR) is the head of the Revenue Department who is empowered with the task of superintendence and administration of registration work. He is assisted by the 12 Deputy Commissioners and 117 *Tehsildars/Naib-Tehsildars* acting as the Registrars and Sub-Registrars (SR) respectively.

### 4.2 Results of audit

In 2012-13, test check of the records of 62 units of the Revenue Department, showed non / short levy of stamp duty and registration fee etc. and other irregularities amounting to ₹3.32 crore in 112 cases, which fall under the categories given in **Table 4.1**:

Table 4.1

Sr. No.	Categories	₹ in crore)	
		Number of cases	Amount
1.	Incorrect determination of market value of property and irregular exemption on housing loan	22	0.46
2.	Non / short levy of stamp duty and registration fee	60	2.67
3.	Other irregularities	30	0.19
<b>Total</b>		<b>112</b>	<b>3.32</b>

During the course of the year, the Department had accepted under assessments and other deficiencies of ₹2.97 crore in 35 cases which were pointed out in earlier years. An amount of ₹39.20 lakh was realised in 24 cases during the year 2012-13.

A few illustrative cases involving ₹2.83 crore are discussed in the following paragraphs.

### 4.3 Incorrect preparation of valuation report by *Patwaris*

As per clarifications issued by the IGR in July 1997, June 1998 and October 2004, market value of land is to be worked out on the basis of mutations done during the preceding 12 months. Under the IS Act, the market value of land for levy of stamp duty and registration fee is assessed on the basis of classification of land and is calculated in accordance with the procedure given in Appendix-XXI of the Himachal Pradesh Land Record Manual 1992. The registering officer is also required to verify the consideration shown in the sale deeds with valuation reports prepared by the concerned *patwaris*. In October 2004, the IGR further clarified that the average price should be based on the consideration amount or market value whichever is higher.

Audit test checked the documents of sale deeds at 21 SRs<sup>1</sup> between July 2012 and February 2013 and noticed that while preparing the valuation reports had taken incorrect / lower value of the land instead of higher value mentioned in the mutations done during preceding 12 months. Consequently 331 documents were registered for ₹48.92 crore during 2010-11 and 2011-12 at lower rates whereas the actual market value of these documents was ₹91.38 crore. This resulted in short realisation of stamp duty and registration fee of ₹2.18 crore, as detailed in **Appendix-VI**.

On being pointed out the cases between July 2012 and February 2013, the IGR intimated in August 2013 that out of ₹21.74 lakh, an amount of ₹3.28 lakh had been recovered in respect of six SRs<sup>2</sup> and efforts were being made to recover the balance amount. The replies from the remaining SRs had not been received (November 2013).

The matter was reported to the Government between August 2012 and March 2013. Replies have not been received (November 2013).

### 4.4 Incorrect determination of market value of properties

As per clarifications issued by the IGR in July 1997, June 1998 and October 2004, market value of land is to be worked out on the basis of mutations done during the preceding 12 months. The registering officer is also required to verify the consideration shown in the sale deeds with valuation reports prepared by the concerned *patwari*. Under the IS Act, stamp duty and registration fee on documents presented for registration is to be levied on consideration amount or market value whichever is higher. Under the Himachal Pradesh Land Record Manual 1992 (Appendix-XXI) the *patwaris* are responsible for preparation of valuation report of the land.

Audit test checked the records of seven SRs<sup>3</sup> between August 2012 and February 2013 and noticed that consideration amount of properties set forth in

<sup>1</sup> Barsar, Banjar, Bharwai, Bilaspur, Fatehpur, Ghumarwin, Hamirpur, Jhanduta, Keylong, Kullu, Kupwi, Moorang, Nalagarh, Nihari, Padhar, Sarkaghat, Shimla (Rural), Solan, Sundernagar, Sunni, and Una

<sup>2</sup> Banjar: ₹1.16 lakh, Jhanduta: ₹38,250, Kullu: ₹1.03 lakh, Moorang: ₹21,000, Sarkaghat: ₹5,565 and Sunni: ₹43,290

<sup>3</sup> Bilaspur, Hamirpur, Indora, Kullu, Nihari, Nalagarh and Una



24 documents registered between 2010 and 2011 was ₹5.44 crore which was much below the market value of ₹12.89 crore shown in the valuation reports prepared by the concerned *patwaris*. While registering these documents, the registering officers were supposed to consider the higher value of properties of ₹12.89 crore for levy of stamp duty and registration fee. This resulted in short realization of stamp duty and registration fee of ₹37.97 lakh as per the details given in the **Appendix-VII**.

On this being pointed out (between August 2012 and February 2013) the SRs stated that cases will be re-examined and compliance intimated accordingly. Replies have not been received (November 2013).

The matter was reported to the Government between September 2012 and March 2013. Replies have not been received (November 2013).

#### **4.5 Short realization of stamp duty and registration fee due to change of classification of land**

As per clarifications issued by the IGR in July 1997, June 1998 and October 2004, market value of land is to be worked out on the basis of mutations done during the preceding 12 months. The market value of land for levy of stamp duty is assessed on the basis of classification of land and is calculated in accordance with the procedure given in Appendix-XXI of the Himachal Pradesh Land Record Manual 1992. The registering officer is also required to verify the consideration shown in the sale deeds with valuation reports prepared by the concerned *patwari*. Under the IS Act, stamp duty and registration fee on documents presented for registration is to be levied on consideration amount or market value whichever is higher.

Audit test checked the records of two SRs<sup>4</sup> between July and August 2012 and noticed that 12 documents were registered during 2011 for a consideration of ₹1.95 crore. Audit further cross checked these documents with the valuation reports prepared by the concerned *patwaris* and found that the valuation reports were not prepared on the basis of classification of land and were based on lower value of the land instead of higher value chargeable. The market value of the land should have been ₹4.43 crore as against ₹1.95 crore recorded in the reports. The registering officers, while registering the documents did not verify the correctness of these considerations with that of the valuation reports. This resulted in short realization of stamp duty and registration fee of ₹12.98 lakh as per the details given in the **Appendix-VIII**.

On this being pointed out between August 2012 and September 2012, the SR Nahan stated that cases as pointed out by the audit will be re-examined and sent to the Collector for evaluation under Section 47-A while SR, Solan stated that after reviewing all the cases outcome will be intimated to audit accordingly.

The matter was reported to the Government and to the Department in August and September 2012. Their replies had not been received (November 2013).

<sup>4</sup> Nahan and Solan

#### **4.6 Non-valuation of property by Collector / District Valuation Committee**

The IGR in September 2003 clarified that for the calculation of market value in urban / industrial areas and areas adjoining the roads / highways, where transaction of land takes place for non-agriculture / commercial activities, the Registering Officer may after registering such instrument refer the case to the Collector for determination of market value. The Government in December 2005 decided on formation of District Valuation Committee (DVC) of designated officers in each district for devising a proper and uniform system as present system of valuation did not provide for proper valuation of land located in urban areas, industrial areas and areas near to the national / state highways.

Audit test checked the Registration records of SR, Nahan in August 2012 and noticed that eight plots of land (113 *Biswa*) were sold and registered for consideration amount of ₹30.76 lakh between April and December 2011 in Jarja *mohal*. These plots were approved by the Town and Country Planning for the residential and commercial purposes but were not forwarded for valuation to DVCs / Collector as required under Section 47-A of the Act. The registering officers did not detect the mistake while registering these documents. However, the market value of the land was worked out to ₹2.03 crore in audit on the basis of valuation reports prepared by the *patwaris* for the year 2011. This resulted in short realization of stamp duty and registration fee of ₹11.14 lakh.

On this being pointed out in August 2012, the SR, Nahan stated that all such cases will be re-examined and sent to the Collector for valuation under Section 47-A.

The matter was reported to the Department and to the Government in September 2012. Their replies have not been received (November 2013).

#### **4.7 Short realisation of stamp duty and registration fee on lease deed**

Article 35 of schedule-I of IS Act, 1899, provides that where a lease is granted for a fine or premium or for money advanced in addition to rent received, the same duty as applicable to conveyance (No. 23), is chargeable. As per the Indian Stamp (Himachal Pradesh Amendment) Act 1970, where lease purports to be for a term exceeding 30 years but not exceeding 100 years, stamp duty is chargeable at the rate of three *per cent*. Besides, registration fee at the rate of two *per cent* subject to maximum of ₹25,000, is also leviable in terms of Government of Himachal Pradesh, Department of Revenue notification dated 18 March 2002. Further, the rule 6.8 (e) of Grant of incentives, concessions and facilities to industrial units in HP, 2004 provides that in case the regular lease deed is entered into between the Department and the allottee after the expiry of a period of two years from the date of allotment of the plot, the lease deed will be made by the Department at the allotment rates prevailing at the time of entering into such regular lease deed. The Industries Department had fixed (June 2009 & April 2011) the rates of premium (per square meter) of plots falling in the industrial area of the respective districts in the State.



Audit test checked the documents of lease deeds of two Sub Registrars<sup>5</sup> between August 2012 and February 2013 and found that in five cases, land measuring 19,511 square meters falling in the industrial area of Shimla and Una districts was allotted / leased out to the parties between February 2010 and April 2011 for the period ranging from 45 to 95 years. Audit scrutiny further showed that both the SRs while registering the documents did not levy the stamp duty and registration fee on the prevailing consideration amount of premium, fixed by the Industries Department for the years in which the cases were leased out as the leases were more than two years old. Consequently, five lease deeds executed between February 2010 and April 2011 were registered at the consideration of premium of ₹2.21 crore calculated at the rates on the date of original allotment, instead of ₹3.13 crore. This resulted in short realisation of stamp duty and registration fee of ₹3.17 lakh.

On this being pointed out (between September 2012 and March 2013), SRs intimated that cases will be reviewed and information in respect of action taken intimated to audit accordingly. Further report on recovery and replies from the said SRs had not been received (November 2013).

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<sup>5</sup> SR Shimla (Rural) and SR Una



**CHAPTER-V**  
**TAXES ON VEHICLES,**  
**GOODS & PASSENGERS**



## CHAPTER-V TAXES ON VEHICLES, GOODS & PASSENGERS

### 5.1 Tax administration

The receipts from the Transport Department are regulated under the provisions of the Central and the State Motor Vehicle Acts and rules made thereunder and are under the administrative control of the Director Transport. The receipts from the goods and passengers tax are regulated under the provisions of the Himachal Pradesh Passengers and Goods Taxation Act 1955, which are administered by the Excise and Taxation Commissioner of the state.

### 5.2 Results of audit

In 2012-13, test check of the records of 47 units relating to token tax, special road tax, registration fee, permit fee, driving license fee, conductor license fee, penalties and composite fee under the National Permit Scheme showed under assessment of tax and other irregularities involving ₹313.21 crore in 212 cases, which fall under the following categories in the **Table 5.1**:

**Table 5.1**

			(₹ in crore)
Sr. No.	Categories	Number of cases	Amount
1.	<b>Performance audit on ‘Levy and Collection of Passenger and Goods Tax’</b>	01	225.82
2.	<b>Non / short realisation of</b> <ul style="list-style-type: none"><li>• Token tax and composite fee</li><li>• Passenger and goods tax</li></ul>	141 03	20.43 2.25
3.	<b>Evasion of</b> <ul style="list-style-type: none"><li>• Token tax</li><li>• Passenger and goods tax</li></ul>	21 02	1.71 52.26
4.	<b>Other irregularities</b> <ul style="list-style-type: none"><li>• Vehicles tax</li></ul>	44	10.74
<b>Total</b>		<b>212</b>	<b>313.21</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹230.80 crore in 193 cases, which were pointed out in earlier years. An amount of ₹5.63 crore was realised in 64 cases during the year 2012-13.

A Performance audit on ‘Levy and Collection of Passenger and Goods Tax’ having money value of ₹225.82 crore and few illustrative cases involving ₹16.70 crore are discussed in the following paragraphs.

### 5.3 Performance audit on 'Levy and Collection of Passenger and Goods Tax'

#### Highlights

- Lack of co-ordination between the concerned RLAs / RTOs and AETCs to ensure the registration of all vehicles with them resulted in non-registration of 13,314 commercial vehicles for the period 2007-08 to 2011-12 and non-realisation of Passenger and Goods Tax amounting to ₹14.52 crore.

*(Paragraph 5.3.8.2)*

- Non-registration of contractors under HPPGT Act resulted in non-levy of additional goods tax of ₹1.01 crore on supply of 4,79,986.75 metric tonnes of shale to ACC Burmana.

*(Paragraph 5.3.9.2)*

- Non-establishment of barriers / check-posts between mining area and manufacturing units resulted in evasion of additional goods tax of ₹6.77 crore on the transportation of 50,95,231.45 metric tonnes of limestone and 1,694.71 metric tonnes of barytes.

*(Paragraph 5.3.9.3)*

- Delay in authorisation of cement companies for collection of additional goods tax resulted in loss of revenue of ₹189.08 crore on transportation of 6,85,26,412.51 metric tonnes of limestone and 51,86,582.43 metric tonnes of shale from mining areas to cement plants for manufacturing of cement.

*(Paragraph 5.3.9.4)*

- Laxity on the part of the Excise and Taxation Department in registration of 451 goods vehicles during the period between 2001-02 and 2008-09 resulted in non-recovery of goods tax of ₹1.06 crore.

*(Paragraph 5.3.10.2 and 5.3.10.3)*

- Non-devising any system to recover the pending arrears in a time bound manner resulted in non-recovery of passenger tax of ₹6.49 crore in respect of 403 cases after their transfer from excise department to State Transport Authority.

*(Paragraph 5.3.11)*

#### Introduction

Levy and collection of receipts from the Passenger and Goods Tax is regulated under the Himachal Pradesh Passengers and Goods Taxation Act (HPPGT), 1955 and Himachal Pradesh Passengers and Goods Rules (HPPGTR), 1957. The receipts from motor vehicles under receipt head "0042-Passenger and Goods Tax" comprises of passenger tax, goods tax, additional goods tax and other receipts.

Passenger and goods tax leviable on the motor vehicles is paid in advance either quarterly or annually in accordance with Rule 9 of HPPGTR, at the rates

prescribed by the Government from time to time. Passenger tax in respect of taxis having seating capacity up to 12 is paid in lump sum according to their seating capacity and for capacity above 12 seats, the passenger tax is assessed and paid according to a prescribed formula. Passenger tax paid by the stage carriages has been re-designated as a special road tax; work relating to which has been transferred to transport department with effect from 1<sup>st</sup> January 2000. Goods tax is paid according to the loading capacity of the vehicle.

### 5.3.2 Organisational set up

Principal Secretary (Excise and Taxation) is the administrative head of the Excise and Taxation department at the Government level. The Excise and Taxation Commissioner (ETC) is the head of the Excise and Taxation department (HOD) who is empowered with the task of superintendence and administration of various fiscal measures. He is assisted by two additional ETCs, one joint ETC, six deputy ETCs, 14 Assistant Excise and Taxation Commissioners (AETCs) and 69 Excise and Taxation Officers (ETOs). They are assisted by Excise and Taxation Inspectors and other allied staff. There are 42 barriers<sup>1</sup> at the entry points manned by Excise and Taxation Officers under the control of eight AETCs<sup>2</sup>. The state is divided into three zones i.e. South Zone, Central Zone and North Zone headed by an Additional ETC and two Deputy ETCs respectively. The department is mainly responsible for registration of commercial vehicles under HPPGT Act and collection of passenger and goods tax.

### 5.3.3 Audit objectives

The performance audit was conducted with a view to ascertain whether:

- the system for determination, levy and collection of passenger and goods tax was efficient and effective in the implementation of HPPGT Act, 1955, HPPGT Rules of 1957 and MVT Act 1988;
- co-ordination between the Transport Department and the Excise and Taxation Authorities existed and was effective to register all the commercial vehicles for passenger and goods taxation; and
- internal control system was adequate and effective to detect deficiency and realisation of the revenue.

### 5.3.4 Scope of Audit and audit methodology

Audit test checked the records between August 2012 and March 2013 for the period 2007-08 to 2011-12 maintained in the office of the ETC Shimla and

<sup>1</sup> Chamba: One (Tunnu Hatti), Solan: Ten: (Parwanno, Barotiwala, Dherewal, Baddi, Bagheri, Novgaon, Dhabota, Darlaghat, Ghularwala and Parwanoo), Sirmour: Eight (Kala Amb, Behral, Kolar, Govindghat, Rajban, Hari-Khol, Suketi and Mirpur Kotla, Bilaspur: Four: (Swarghat, Golthai, Barmana and Shree Naina Devi Ji), Kangra: Six (Kandwal, Sansarpur Terrace, Indora, Kandrori, Chakki and Tokki Shimla: Two (Kuddu and Railway station), Una: 11 (Mehtpur, Gagret, Bathari, Pandoga, Marwari, Anjoli, Polian, Bhatoli, Basdehra, Santokhgarh and Gondpur)

<sup>2</sup> AETCs Baddi, Bilaspur, Chamba, Kangra at Dharmsala, Shimla, Sirmour at Nahan, Solan, and Una

eight<sup>3</sup> out of 11 AETCs offices and ETO Kinnaur. The selection of the units was made by applying IDEA random sampling technique.

### 5.3.5 Acknowledgment

Audit acknowledges the co-operation of the Excise and Taxation Department in providing necessary information and records for test check. An entry conference was held in October 2012 with the Principal Secretary, Excise and Taxation (E&T), Government of Himachal Pradesh wherein the objectives, scope and methodology for conducting the performance audit were discussed. The performance audit was forwarded to the Department and to the Government in August 2013 and the exit conference was held in September 2013. The Deputy Secretary (Excise & Taxation) represented the Government while the Excise & Taxation Commissioner represented the department. The views of the Government have been appropriately incorporated in the relevant paragraphs.

### 5.3.6 Trend of revenue

A comparison of budget estimates and actual receipts in respect of passenger and goods tax during the year 2007-08 to 2011-12 is given in **Table 5.2**.

**Table 5.2**  
**Trend of Revenue**

(₹ in crore)				
Year	Budget Estimates	Actual	Variation Excess (+) or Shortfall (-)	Percentage of variation over budget estimate
2007-08	46.35	55.12	8.77	19
2008-09	68.67	62.39	(-) 6.28	(-) 9
2009-10	75.54	88.74	13.20	17
2010-11	82.55	93.46	10.91	13
2011-12	117.36	94.36	(-) 23.00	(-) 20

It may be seen that during the years 2007-08, 2009-10 and 2010-11, there was an excess of receipts compared to the budget estimates (BEs), ranging between 13 and 19 *per cent* whereas during the years 2008-09 and 2011-12 there was a decrease of 9 and 20 *per cent* respectively. It is evident that the BEs was prepared on unrealistic basis. The reasons for increase / decrease have been sought from ETC (July 2012) which were still awaited (November 2013).

### Audit findings

#### 5.3.7 Non-maintenance of centralised data

For proper realisation of revenue a centralised data of total number of commercial vehicles registered with the AETCs in the State, is to be maintained at the apex level showing the number of passenger, goods, education and institutional, contract carriage and private service vehicles registered in the State, for effective control and checks for levy, charge and collection of the taxes and other dues from them.

<sup>3</sup> AETCs Baddi, Bilaspur, Kangra at Dharmsala, Kullu, Shimla, Sirmour at Nahan, Solan and Una

During test check of the records (between August 2012 and March 2013) of ETC Shimla, seven AETCs and ETO Kinnaur, it was noticed that no such data was being maintained at the apex level. In the absence of centralised data of commercial vehicles registered, quarter wise / year wise / district wise etc., revenue due and realised in respect of such vehicles could not be ascertained in audit. The consolidated information was sought (July 2012) from the Excise and Taxation Commissioner Shimla, which was awaited (November 2013).

On this being pointed out (March 2013) by audit, the Government admitted (September 2013) the audit observations in exit conference.

### **5.3.8 Deficiencies / lacunae in the Acts led to lack of co-ordination between RLAs / RTOs and AETCs**

Sections 8(1) and 9(3) of the HPPGT Act 1955 provide that no vehicle shall be registered for Passenger and Goods Tax unless it has been registered under MVT Act, 1988 by the RLAs and RTOs and the owner is in possession of a valid registration certificate. In case where cancellation of registration certificates is caused due to transfer, discontinuance, closing down of business etc., no objection certificate (NOC) is issued by the RLAs / RTOs to the owner of the commercial vehicle only after clearance of all dues thereof. Further, the validity of the certificate of fitness is required to be issued to its owners by the Motor Vehicle Inspector of RTOs under Central Motor Vehicles Rules, 1989 for a period of two years in case of new vehicle and every year thereafter.

Audit noticed some lacunae / deficiencies in two sets of Acts viz. HPPGT Act, 1955 and MVT Act, 1988 and rules made thereunder. There was no provision in the MVT Act regarding sharing of the following issues with the concerned AETC of the Excise and Taxation Department, which led to non-registration of commercial vehicles under the HPPGT Act, 1955.

- (i) *registration of a new vehicle*
- (ii) *cancellation of registration certificates*
- (iii) *issue / renewal of certificate of fitness and*
- (iv) *grant of NOC in the case of transfers etc.*

The administrative instructions issued in December 1984, stipulating that the Excise and Taxation Department shall take suitable measures to ensure registration of all commercial vehicles under the HPPGT Act and for that purpose maintain close co-ordination with the RLAs / RTOs were rarely being complied with. In the absence of mandatory provisions in the Acts requiring close co-ordination and sharing of all vital information between RLAs / RTOs and AETCs / ETOs concerned, the possibilities of non-registration of commercial vehicles for passenger and goods taxation, non-levy / non-realisation of taxes / penalty etc. could not be ruled out.

#### **5.3.8.1 Raids / inspections by departmental officers and Flying Squads**

A flying squad (FS) under the charge of ETO has been established in South, North and Central zones headed by one Additional ETC, two Deputy ETCs



respectively in order to conduct raids and inspections for checking of evasion of PGT by the owners of commercial vehicles.

Audit scrutiny of records between August 2012 and March 2013 of eight AETCs<sup>4</sup> and ETO Kinnaur showed that out of 47,512 goods, passenger, and contract carriage vehicles registered with the RLAs / RTOs during the years 2007-08 to 2011-12, 13,314 vehicles were not registered with the respective AETCs / ETO. Neither the concerned AETCs nor the Flying Squads had collected the details of these vehicles from the RLAs / RTOs for taking action at their levels either to locate or impound or realise the tax etc. This showed significant laxity on the part of AETCs in achieving the desired objectives.

### 5.3.8.2 Non-registration of Goods and Passenger vehicles with Excise and Taxation Authorities

Under the Himachal Pradesh Passengers and Goods Taxation (HPPGT) Act 1955 and the rules made thereunder, owners of stage / contract carriages and goods carriers are required to register their vehicles with the concerned excise and taxation offices and pay passenger tax and goods tax at the prescribed rates. As per Excise and Taxation Department notification dated 5 May 2004, issued under the HPPGT Act 1955, the lump-sum passengers tax, in case of Educational Institution Bus, as specified in sub-clauses (i), (ii) and (iii) of clause (a) of sub-rule 9 (8), shall be payable in equal quarterly instalments within 30 days of the commencement of the quarter to which it relates. Passenger tax<sup>5</sup> is to be realized on the basis of the seating capacity of the vehicle. For failure to apply for registration, penalty not exceeding five times the amount of tax so assessed, subject to a minimum of ₹500 is also leviable.

Audit cross checked (between August 2012 and March 2013) the records of registration of 11 RLAs and nine RTOs with that of eight AETCs and ETO Kinnaur and noticed that out of 47,512 test checked commercial vehicles, which were registered with the concerned RLAs / RTOs between 2007-08 and 2011-12, 13,314 vehicles<sup>6</sup> were not found registered with eight AETCs and ETO Kinnaur as required under HPPGT Act. Audit further noticed that there was no co-ordination of AETCs / ETO with the concerned RLAs / RTOs or *vice versa* to ensure the registration of all commercial vehicles with Excise Department. As a result, passengers and goods tax amounting to ₹14.53 crore for the period 2007-08 to 2011-12 was not realised from the owners of these vehicles. Besides, a minimum penalty of ₹66.56 lakh was also leviable as per the details given in **Table 5.3**:

<sup>4</sup> Baddi, Bilaspur, Kangra at Dharmsala, Kullu, Shimla, Sirmour at Nahan, Solan and Una

<sup>5</sup> Mini bus seating capacity upto 30, big bus seating capacity more than 30

<sup>6</sup> Goods vehicles: Baddi: 3,417: ₹3.73 crore; Bilaspur: 756: ₹1.11 crore; Kangra 531: ₹50.01 lakh; Kullu: 616: ₹69.32 lakh, Shimla: 1,423: ₹1.95 crore; Sirmour: 1,020: ₹1.01 crore; Solan: 1,937: ₹3.12 crore, Una: 1,055: ₹78.46 lakh and ETO Kinnaur 181: ₹15.40 lakh. Passenger Vehicles: Bilaspur: 129: ₹4.96 lakh; Kangra 663: ₹51.75 lakh; Kullu: 344: ₹27.36 lakh, Shimla: 554: ₹34.21 lakh; Sirmour: 24: ₹2.80 lakh; Solan: 322: ₹27.22 lakh, Una: 74: ₹8.93 lakh. Educational Institution Buses: Baddi:134: ₹34.18 lakh; Bilaspur: 20: ₹3.78 lakh; Shimla: 23: ₹3.62 lakh; Sirmour: 50: ₹7.86 lakh; Solan:20: ₹2.57 lakh and Una: 21 vehicles: ₹5.32 lakh

Table 5.3

(₹ in lakh)							
Sr. No.	Nature of vehicle	Period between	Total No. of vehicles not found registered with Excise & Taxation Department / Test checked vehicles	Amount recoverable			
				Passenger tax	Goods tax	Total amount recoverable	Minimum penalty @ ₹500 per vehicle
1	Passenger Vehicles (Maxi Cabs / Taxi)	2007-08 and 2011-12	2,110 / 10,585	146.70	--	146.70	10.54
2	Passenger Vehicles (Educational Institution Buses)	2007-08 and 2011-12	268 / 659	56.00	--	56.00	1.34
3	Goods vehicles (HGV / MGW / LGV / Tractors)	2007-08 and 2011-12	10,936 / 36,268	--	1,249.79	1,249.79	54.68
<b>Total</b>			<b>13,314 / 47,512</b>	<b>202.70</b>	<b>1,249.79</b>	<b>1,452.49</b>	<b>66.56</b>

On this being pointed out (between July 2012 and March 2013), the Government admitted (September 2013) the audit observations in exit conference and stated that all the AETCs had been directed to take action against each vehicle owner by tracing out their addresses from the original registration record available with respective RLAs / RTOs and recover the outstanding amount as pointed out by the audit. Further report on recovery has not been received (November 2013).

### 5.3.8.3 Evasion of passenger tax by the owners of contract carriages / HP Tourism Development Corporation

As per section 8 of HPPGT Act, 1955 no owner shall ply his motor vehicle in the state unless he is in possession of a valid registration certificate. Commercial vehicles (Except stage carriages) registered under HP Motor Vehicle Act are required to be registered under HPPGT Act, 1955 with Excise and Taxation Department for the purpose of passenger tax. Rule 9 of the HPPGT Rules 1957, further provides that the owners of a stage carriage and contract carriage other than those specified in sub-rules (1-A) and 8 of this rule, may pay to the State Government tax in lump-sum as determined by the Assessing Authority on the basis of formula<sup>7</sup>.

Audit scrutiny of registration records of vehicles (between October 2012 and February 2013) of two AETCs showed that 367 contract carriage vehicles<sup>8</sup> registered with concerned RLAs / RTOs during 2007-08 under the motor vehicle Act 1988, were not found registered with the Excise and Taxation Department as required under the HPPGT Act 1955 though the owners of these vehicles were plying their vehicles regularly and paying the token tax. Neither the AETCs nor the flying squads had taken any concrete steps to locate these vehicles and get them registered under the Act. The owners of these vehicles were thus evading the payment of passenger tax.

On this being pointed out, the AETC Shimla stated (October 2012) that out of 200 buses, 12 buses pertain to Shimla district for which notices had been issued

<sup>7</sup> Number of seats X number of scheduled kilometers X average occupancy that is (33) per cent X rate of passenger tax X fare per kilometer

<sup>8</sup> Shimla- 200 vehicles and Solan-167 vehicles

to the owners for registration of their vehicles under the HPPGT Act. The list of remaining vehicles had also been circulated to all the districts / in-charge with the directions to intimate the position of registration of these vehicles.

The matter was reported to the Department and the Government in August 2013. The Excise and Taxation Commissioner stated (September 2013) in exit conference that action will be taken after investigating the matter and recovery effected from Tourism Development Corporation accordingly. Further report of progress in this regards is still awaited (November 2013).

#### 5.3.8.4 Non-realisation of Goods and Passenger tax

Under the Himachal Pradesh Passenger and Goods Taxation (HPPGT) Act, 1955, and rules made thereunder, owners of vehicles are required to pay tax etc. at the prescribed rates either monthly or quarterly.

Audit test check, between August 2012 and March 2013, of Demand and Collection Registers (DCR) maintained in the offices of eight AETCs and ETO Kinnaur showed that out of 9,022 vehicles, passenger and goods tax in respect of 5,485 vehicles<sup>9</sup> amounting to ₹6.77 crore for the period between 2007-08 and 2011-12 was not paid by the owners of these vehicles. Neither certificates of registration had been deposited by the owners of the vehicles with the registering authorities nor entries found recorded in the office. The AETCs / ETO did not issue demand notices to them which resulted in non-realisation of tax of ₹6.77 crore besides, a minimum penalty of ₹27.43 lakh which was also leviable for non-payment of passengers and goods tax as per the details given in **Table 5.4:**

Table 5.4

Sr. No.	Nature of vehicle	Period	Total No. of vehicle for which tax was not paid / Test checked vehicles	Amount recoverable (₹ in lakh)			
				Passenger tax	Goods tax	Total amount recoverable	Minimum penalty @ ₹500 / per vehicle
1	Passenger Vehicles (Maxi Cabs / Taxi)	2007-08 and 2011-12	2,244 / 3,522	218.20	--	218.20	11.22
2	Passenger Vehicles (Educational Institution Buses)	2007-08 and 2011-12	205 / 205	44.42	--	44.42	1.03
3	Goods vehicles (HGV / MGW / LGV / Tractors)	2007-08 and 2011-12	3,036 / 5,295	--	414.73	414.73	15.18
<b>Total</b>			<b>5,485 / 9,022</b>	<b>262.62</b>	<b>414.73</b>	<b>677.35</b>	<b>27.43</b>

<sup>9</sup> Passenger Vehicles: Baddi: 32 vehicles: ₹3.17 lakh, Bilaspur: 51 vehicles: ₹7.45 lakh, Kangra: 1,699 vehicles: ₹1.37 crore, Kullu: 131 vehicles: ₹26.86 lakh, Shimla: 193 vehicles: ₹25.43 lakh, Solan: 71 vehicles: ₹14.50 lakh, Una: 19 vehicles: ₹3.94 lakh and Kinnour: 48 vehicles: ₹11.54 lakh. Educational Institution Buses: Baddi: 18 vehicles: ₹3.01 lakh, Kangra: 86 vehicles: ₹23.41 lakh, Kullu: four vehicles: ₹1.18 lakh, Shimla: four vehicles: ₹1.13 lakh, Solan: 54 vehicles: ₹8.54 lakh and Una: 39 vehicles: ₹8.18 lakh. Goods Vehicles: Baddi: 180 vehicles: ₹18.60 lakh, Bilaspur: 394 vehicles: ₹44.07 lakh, Kangra: 929 vehicles: ₹79.01 lakh, Kullu: 108 vehicles: ₹24.42 lakh, Shimla: 222 vehicles: ₹43.99 lakh, Sirmour: 294 vehicles: ₹60.41 lakh, Solan: 345 vehicles: ₹70.90 lakh, Una: 400 vehicles: ₹71.47 lakh and Kinnour: 164 vehicles: ₹17.04 lakh.

On this being pointed out (between July 2012 and March 2013), the Government admitted (September 2013) the audit observations in exit conference and stated that all the AETCs had been directed to take action against each vehicle owner by tracing out their addresses from the original registration records available with respective RLAs / RTOs and recover the outstanding amount as pointed out by the audit. Further report on recovery has not been received (November 2013).

### 5.3.9 Additional Goods Tax (AGT)

#### 5.3.9.1 Non / delayed authorization / registration of firms for levy and collection of AGT

Section 3-B of the HPPGT (Amendment) Act 1996 (inserted with effect from 01 October 1996), provides that there shall be levied, charged and paid to the State Government, an additional goods tax (AGT) on the transport of the goods specified in column (2) of the Schedule-II at the prescribed rates for every slab of two hundred and fifty kilometers or part thereof covered / or being covered by road within the State. The payment of additional goods tax shall be made by the person-in-charge or the driver of the vehicle. The Rule 9-D of HPPGT Rules, 1957 (inserted on 24 November 2006) further provides that a person selling or causing, or authorizing to cause dispatch for transport of goods specified in Schedule-II to the Act and duly authorised by the State Government by notification, shall be duly registered by the AETC or ETO in-charge of the district under the HPGST Act, 1968 of HPVAT Act, 2005 in the concerned district office. The authorised person shall collect the amount of AGT from the person-in-charge or the driver of the motor vehicle in or on which goods are to be transported, as the case may be, and issue certificate in Form-PGT 21-A showing the receipt of the amount so collected and shall deposit it into the Government treasury. Section 4 A(3) of HPGST Act, 1955 further provides that if any person contravenes any of the provisions relating to levy and payment of AGT the prescribed authority, shall, after giving opportunity of being heard, direct such person to pay by way of penalty a sum not exceeding twice the amount of tax payable.

During test check of records between August 2012 and March 2013, Audit noticed following deficiencies in levying and collection of AGT:

- (i) No provision has been made in the Act to register assesseees for AGT under HPPGT Act similar to that of registration of dealers for sales tax / VAT and thus, many firms evade AGT being not a registered dealer either for GST / VAT or AGT. Eight firms<sup>10</sup> under AETC Solan were authorised (September 2011) to collect AGT and had not been registered as such till February 2013.
- (ii) The Act came into force with effect from 01 October 1996 but the Government issued notifications authorising 144 firms between 2007

<sup>10</sup> M/s Chemiplast Industries Parwanoo; Nu-Line Pvt. Ltd. Industries Parwanoo; Swati Stroewell Pvt. Ltd., Parwanoo; Plato Industries, Parwanoo; Prentos Ltd. Parwanoo; Super Platek Pvt. Ltd., Parwanoo; Sturdy Ltd. Industries, Parwanoo and Himalayan Pipe Industries, Solan

and 2012, as given in **Appendix-IX**, to collect AGT on transportation of items falling under schedule-II. As per Act the AGT was being paid by the driver or person in charge of the motor vehicle at the barrier but was not being paid by them in the case of intrastate (within state) sale / transport of such items, due to non existence of barriers / check posts and non issuance of notification to authorize persons / firms immediately after the Act came into force.

- (iii) The ETO Nalagarh had identified 13 firms, selling / transporting goods between 2006 and 2010 falling under Schedule-II of HPPGT Act which were duly registered under Sales tax / VAT but had not been brought under the purview of AGT.
- (iv) Neither a database regarding number of firms, companies, contractors / lessees dealing with the transportation etc. of goods included in Schedule-II of the Act had been maintained in the Department nor any system devised to bring all the firms under the purview of HPPGT Act for levy and realisation of AGT.

Taking benefit of non / late-authorisation, non-registration for VAT / AGT, absence of barriers / check-posts at appropriate locations within state, the firms, companies, contractors etc. engaged in the transportation of goods falling under Schedule II of the Act, had been evading payment of AGT as under:

#### **5.3.9.2 Non-levy of AGT on Contractors**

Audit test checked the records of the Mining Officer (MO), Bilaspur and noticed that three<sup>11</sup> contractors, registered under HPPGT Act (two private and one government contractor) were granted leases in the Delag mining area for extraction and supply of shale to ACC Cement Plant Burmana. The private contractors had supplied 4,79,986.75 metric tonnes of shale to ACC Burmana Cement Plant between February 2007 to December 2012 on which they were liable to pay AGT of ₹33.60 lakh. But AGT was neither paid by the contractors nor demanded by the Department whereas the Government contractor had paid the AGT for the supply of shale. Besides, a penalty of ₹67.20 lakh (200 *per cent* of tax) was also leviable for non-payment of AGT.

Audit further noticed that no excise barrier for collection of AGT on transportation of the minerals from the leased area to Cement Plant had been established by the Department which resulted in depriving the Government of revenue.

The matter was reported to the Department and the Government in August 2013. The Government admitted (September 2013) the audit observations in exit conference and stated that at present 203 firms have already been registered for collection of AGT and necessary directions have also been issued to all the AETCs / ETOs to effect the recovery as pointed out by the audit. Further report of recovery is still awaited (November 2013).

<sup>11</sup> HPGIC, Sh. Jodh Singh and Sh. Subhash Thakur



### 5.3.9.3 Undue benefit to Limestone Mine Lessees

Audit scrutiny of records of MO, Sirmour showed that 38 lessees extracted 50,95,231.45 metric tonnes (MT) of limestone and 1,694.71 MT of barytes during the years 2007-08 to 2011-12 on which AGT of ₹14.53 crore was leviable. It was further noticed that some lessees were selling limestone to the units which were set up adjacent to the mining areas (Sataun area) or just before the excise barrier of Rajban, and were manufacturing lime powder and poultry feed. However, limestone and barytes which was transported through the barrier was charged AGT of ₹7.76 crore and the balance amount of ₹6.77 crore evaded.

The matter was reported to the Department and the Government in August 2013. The Government admitted (September 2013) the audit observations in exit conference and stated that action will be taken after investigating the factual position and recovery will be effected accordingly. Further report on recovery has not been received (November 2013)

### 5.3.9.4 Loss of revenue due to delay in authorisation for collection of AGT

Four cement companies<sup>12</sup> were using limestone and shale as raw material for manufacturing of cement since 1980, the Government has authorised only two cement companies (Ambuja & Jai Parkash Ltd.) vide notification of January 2012 for collection of AGT and the other two companies were still not notified for collection of AGT. Audit scrutiny of records / data collected from the concerned MOs of the districts showed that the Cement companies<sup>13</sup> had dispatched / transported 6,85,26,412.51 MT of limestone and 51,86,582.43 MT of shale from mining areas to cement plants for manufacturing of cement between April 2007 and March 2012 for which industries were liable to pay AGT of ₹189.08 crore. However, it was neither paid by these industries nor was it demanded by the department, resulting in evasion of revenue and caused loss to that extent.

(ii) Audit scrutiny of records of seven firms under the jurisdiction of AETC Baddi and Una showed that these firms were manufacturing and despatching goods as specified in Schedule-II between April 2003 and September 2009 but were notified only in September 2011 to collect AGT. Scrutiny of monthly returns, submitted by these firms {August 2012, (three firms), September 2012, October 2012 (one firm in each month) and December 2012 (two firms)} after authorisation, showed that these firms had paid AGT of ₹12.61 lakh in a single month for intra-state dispatches of goods. As the firms were not authorised to collect / deposit the tax and in the absence of barriers *enroute* transporting the goods within the state for the last several months ranging between 18 and 100 months, the AGT had not been collected / paid by them. Since the notification in respect of 144 firms was made in 2007, and there were many other firms

<sup>12</sup> ACC Barmana: 1984, Ambuja Cement: before 1996, CCI Rajban : 1980 and J.P. Cement: 2010

<sup>13</sup> ACC Barmana: ₹59.32 crore, Ambuja Cement: ₹120.63 crore: Cement Corporation of India: ₹3.23 crore and J.P. Cements: ₹20.21 crore

which were still left out due to non-identification, loss could not be quantified in the absence of any database maintained by the department.

The matter was reported to the Department and the Government in August 2013. The Government admitted (September 2013) the audit observations in exit conference and assured that the Cement Companies who are engage with the work of transportation of material from mining areas to the cement plants for manufacturing of cement will shortly be notified for collection of AGT. Further replies had not been received (November 2013).

#### **5.3.9.5 Non-erection of check posts or barriers**

Section 14-B of the HPPGT Act, provides that with a view to prevent evasion of tax, the State Government may, by notification, direct the Excise and Taxation Department to erect a check post or a barrier or both on such road or roads as may be notified.

Audit noticed from the 'Annual Administrative Report' of Government of Himachal Pradesh for the year 2011-12 that Excise and Taxation Department had established check posts / barriers at 42 entry points with other States for collection of taxes. The information relating to other points where such check posts or barriers could be erected within the State, to check transportation of goods or passengers without registration of commercial vehicles and / or payment of legitimate taxes, when called for (July 2012) was not made available by the department.

On this being pointed out (March 2013), the Government admitted (September 2013) the audit observations in exit conference and assured that appropriate action will be taken on the matter shortly. Further report of progress in this regard is still awaited.

#### **5.3.10 Non-assessment / recovery of the tax after registration of vehicles**

##### **5.3.10.1 Non-maintenance of Demand and Collection Register / Daily collection of tax register**

As per provision contained in Section 19 (A) and (B) of the Himachal Pradesh Passenger and Goods Taxation Rules 1957, there shall be maintained in the Excise and Taxation office of each district a daily collection register in form PGT-23 and demand and collection register (DCR) in form PGT-24 in which the particulars of every challan received in proof of payment of tax, surcharge or penalty or any other amount due under the Act as made by the owners of motor vehicle shall be recorded. Rule 20 of the Act provides that challans shall be filled up in quadruplicate, one copy of the challan shall be retained by the treasury, one copy shall be sent to the Assessing Authority and other two copies shall be returned to the owners of the vehicles, in proof of payment made, of which one copy shall be attached to the monthly return and other copy be retained with the owner for his record.

Audit cross checked the records of registration of AETC, Baddi and ETO, Nalagarh and found that the DCR had not been maintained by the ETO in



respect of 415 vehicles transferred for realisation of goods tax by the AETC, Baddi between 2008-09 and 2011-12. It was further noticed in audit that the ETO, Nalagarh had not issued any notice to the owners of vehicles to deposit the tax. In the absence of DCR, recoverable goods tax amounting to ₹78.24 lakh for the above period, whether paid or not, could not be verified in audit.

(ii) Audit scrutiny of records of eight AETCs<sup>14</sup> showed that daily collection registers were not being maintained in their offices in the absence of which revenue realised during the period 2007-08 to 2011-12 could not be verified in audit. Further the copies of challans in support of tax deposited by the owners of commercial vehicles had not been obtained from the treasuries by AETCs Baddi, Solan and Shimla as required under Rule as a result of which the accounts of the tax payers were not updated. This showed lack of monitoring by the AETCs.

The matter was reported to the Department and the Government in August 2013. The Government admitted (September 2013) the audit observations in exit conference and stated that due to shortage of staff this could not be done. However, necessary directions had been issued to all the AETCs to look into the matter at their own level and outcome may be intimated to audit accordingly. Further report of progress in this regards is still awaited (November 2013).

#### 5.3.10.2 Non payment of tax

Audit scrutiny of DCR maintained in the offices of four AETCs<sup>15</sup> showed that 244 goods and passenger vehicles<sup>16</sup> were registered with Excise and Taxation Department between 2003-04 and 2011-12. The owners of these vehicles had not paid even a single instalment of goods / passenger tax from the date of registration of their vehicles with the Excise Department. The department had neither issued any demand notice to the owners of these vehicles nor the owners of the vehicles turned up to pay the tax. This laxity on the part of the AETCs resulted in non-recovery of tax of ₹49.71 lakh. Further in three AETCs<sup>17</sup> owners of 170 vehicles had registered their vehicles between 2007-08 and 2011-12 with Excise and Taxation Department and paid only one instalment of tax at the time of registration. Neither the demand notices of accrued taxes of ₹42.22 lakh were issued by the Department nor the same was paid by the owners of the vehicle. Inaction on the part of the Department resulted in non-recovery of tax of ₹91.93 lakh.

The matter was reported to the Department and the Government in August 2013. The Government admitted (September 2013) the audit observations in exit conference and stated that action will be taken after investigating the factual position and recovery would be effected accordingly. Further report on recovery has not been received (November 2013).

<sup>14</sup> Baddi, Bilaspur, Kangra at Dharamsala, Kullu, Shimla, Sirmour, Solan, and Una

<sup>15</sup> BBN at Baddi, Solan, Shimla and Una

<sup>16</sup> Baddi: 56 vehicles: ₹6.96 lakh, Shimla 119 vehicles: ₹30.79 lakh and Una: 50 vehicles: ₹7.33 lakh

<sup>17</sup> Bilaspur: 119 vehicles: ₹21.65 lakh, Shimla: 39 vehicles: ₹16.17 lakh and Solan: 51 vehicles: ₹9.02 lakh

### 5.3.10.3 Non recovery of Goods Tax from Contractor

Audit test checked records of registration and DCR of ETO Kinnour (March 2013) and noticed that a contractor who was executing a project work had a fleet of 37 goods vehicles which were registered (between April 1998 and March 2005) with ETO, Kinnour under the HPPGT Act. The payment of goods tax was assessed by the assessing authority w.e.f. 1998 to 2005 and same was paid up to March 2005. Thereafter, neither the goods tax was assessed by the AA nor paid by the contractor. There was nothing on record to show that demand notices were ever issued by ETO, Kinnour to the contractor to recover the goods tax. Thus, due to inaction on the part of the assessing authority, the contractor had evaded the payment of goods tax to the tune of ₹13.61 lakh for the period from April 2005 to March 2012.

The matter was reported to the Department and the Government in August 2013. The Government admitted (September 2013) the audit observations in exit conference and stated that necessary directions will be issued to the ETO Kinnour to trace out the contractor who was engaged with a project work and had a fleet of 37 goods vehicles and to effect recovery from him as pointed out by the audit. Further progress in this regard and report on recovery has not been received (November 2013).

### 5.3.11 Non-monitoring of arrears

As per notification dated 29 December 1999, issued by the Excise and Taxation Department, the owners of the stage carriages, covered under section 3-A of Himachal Pradesh Motor Vehicles Taxation (Amendment) Act, 1999, have been exempted from the operation of provisions contained in section 3 and 3A of HPPGT Act, 1955 w.e.f. January 2000. The work relating to levy, charge and collection of passenger tax in respect of these vehicles had been transferred to Regional Transport Authorities in the State from January 2000. In case the Government dues cannot be recovered by means available with the Department, such arrears are certified as Arrears of Land Revenue (ALR) under the Himachal Pradesh Land Revenue Act, 1953 (Act No. 6 of 1954) administered by the Collectors of the respective districts of the State. The powers of Collectors were delegated to the departmental officers of the Excise and Taxation Department in December 1990 and January 1993.

Audit scrutinised the information collected from eight AETCs<sup>18</sup> between August 2012 and March 2013 and noticed that owners of 478 stage carriages had not paid passenger tax of ₹8.56 crore for the period 1969-70 to 2011-12 which was pending for collection. Out of 478 cases, 75 cases involving ₹2.07 crore were referred by six AETCs<sup>19</sup> to the Collectors to recover the tax as ALR. The recovery of ₹6.49 crore involved in remaining 403 cases was neither made

<sup>18</sup> Baddi: 22 Cases: ₹19.65 Lakh, Bilaspur: 12 cases: ₹23.45 lakh, Kangra at Dharmsala: 108 cases: ₹1.43 crore, Kullu: 22 cases: ₹1.38 crore, Shimla: 24 cases: ₹36.82 lakh, Sirmour: 10 cases: ₹45.24 lakh, Solan: 234 cases ₹4.13 crore, and Una: 46 cases: ₹35.76 lakh.

<sup>19</sup> Baddi: Two cases: ₹0.13 lakh, Bilaspur: Seven cases: ₹16.90 lakh, Kangra: 23 cases: ₹48.94 lakh, Kullu: 20 cases: ₹105.33 crore, Solan: 14 cases ₹24.17 lakh and Una: Nine cases: ₹10.85 lakh

by the Excise Department itself nor referred to the Collectors as ALR nor transferred to Regional Transport Authorities in the state with whom these cases were being dealt with at present. Inaction on the part of the Department resulted in non-recovery of passenger tax of ₹6.49 crore.

The matter was reported to the Department and the Government in August 2013. The Government admitted (September 2013) the audit observations in exit conference and stated that necessary directions had been issued to all the AETCs to effect the recovery from the defaulter owners. Further report on recovery has not been received (November 2013).

### 5.3.12 Non-submissions of returns

#### 5.3.12.1 In-charge of check-posts / barriers

As per provisions of Rule 19 (2, 3 and 4) of HPPGT Rules 1957, a person in-charge of the vehicle may make the payment of tax in cash at the office of the Assessing Authority of the district concerned or the prescribed authority or the office-in charge of the check-post / barrier. Person in-charge of the check post / barriers is required to send a statement in Form PGT-22 before the seventh of the following month to the Assessing Authority of the district, who issued the certificate of registration.

Audit test checked the records of seven AETCs<sup>20</sup> between July 2012 and March 2013 and noticed that in-charges of barriers / check-posts had not sent any return of passenger tax or goods tax deposited with them by the owners of vehicles between 2007-08 and 2011-12 to the AETCs with whom the vehicles were registered. These AETCs also had neither taken up the matter with the respective in-charges of the barriers / check-posts to furnish such return nor with the Excise and Taxation Commissioner (ETC) Shimla to issue necessary instructions in this regard.

It was further seen that in respect of 28 barriers under the control of these AETCs, (except Kullu), the in-charges had furnished only income statements under the head PGT amounting to ₹71.31 crore between 2007-08 and 2011-12 but the vehicle wise details were not submitted, in the absence of which the accounts of PGT of these vehicle owners were not updated / completed.

The matter was reported to the Department and the Government in August 2013. The Government stated (September 2013) in exit conference that due to shortage of staff this could not be done. However, necessary directions in this regard had been issued to all the AETCs to look into the matter their own level. Further report of progress in this regards is awaited (November 2013).

#### 5.3.12.2 Contract Carriages

As per provisions of Rule 17A of HPPGT Rule 1957, the owner of each contract carriage shall on or before the 7<sup>th</sup> day of the following month to which the payment of the tax relates, submit to the Assessing Authority a return in

<sup>20</sup> Baddi, Bilaspur, Kangra at Dharmsala, Shimla, Sirmour at Nahan, Solan and Una

Form PGT 8-A & 8-C accompanied by a Treasury receipt showing the amount of tax which has been paid by the owner of vehicle into the treasury.

Audit scrutiny of records of AETC, Shimla (October 2012) showed that 12 contact carriages were registered with AETC, Shimla during the period 2002-03. The owners of these vehicles had paid only one instalment of tax at the time of registration of vehicle; thereafter neither the owners of these vehicles turned up to pay tax / furnish monthly returns to the AA, nor the AA had taken any action to recover taxes etc. and a period of more than 10 years had elapsed. This showed that the AETC was not alert to the requirement of rules and collection of revenue.

The matter was reported to the Department and the Government in August 2013. The Excise and Taxation Commissioner stated (September 2013) in exit conference that the matter will be investigated and action will be taken accordingly. Further report of progress in this regards is still awaited (November 2013).

### **5.3.13 Internal control system**

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

During the course of audit of eight AETCs for the period 2007-08 to 2011-12 it was noticed that as a result of various deficiencies mentioned *supra* the internal control in the department was weak and no inter departmental inspections were carried out.

#### **5.3.13.1 Internal Audit System**

Internal Audit Wing (IAW) of an organisation is a vital wing for monitoring its functioning. It helps the management to take corrective action wherever necessary to ensure that systems are functioning reasonably well and stated objectives are achieved, especially in the process of assessment of cases, speedy collection of revenue, prevention and detection of fraud / irregularities. The Internal Audit Branch has been set up under the Finance Department which conducts internal audit in various departments in the State.

Audit scrutiny of records of eight AETCs<sup>21</sup> and ETO Kinnaur (August 2012 and March 2013) showed that internal audit of these field units had not been conducted by the internal audit branch of the Finance Department. Also no internal audit wing of the Excise Department had been established and the required internal audit had not been conducted during the period under review.

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<sup>21</sup> Baddi, Bilaspur, Kangra at Dharamsala, Kullu, Shimla, Sirmour Solan and Una.

There were 524 paragraphs, in 207 Inspection Reports of Principal Accountant General (Audit) involving ₹214.35 crore, outstanding / pending for settlement up to March 2013 as per details given in **Table -5.5**:

Table 5.5

Years	1972-73 to 2008-09	2009-10	2010-11	2011-12	2012-13	Total
<b>No of IRs</b>	176	7	12	6	6	207
<b>No of PDPs</b>	124	5	29	27	65	250
<b>No. of paragraphs</b>	352	12	56	24	80	524*
<b>Amount of revenue involved (₹ in lakh)</b>	528.21	22.33	68.04	97.53	20,719.22	21,435.33
<b>*Note:-</b> 524 paragraphs include 250 PDPs also. Draft paragraphs are not included.						

The above table shows that Excise and Taxation Department had not made requisite compliance / efforts to get these huge numbers of paragraphs settled which were pending for the last 40 years.

### 5.3.14 Conclusion

Passengers and Goods tax occupies an important place in contributing to the tax revenue of the State. Evasion of Passenger and Goods tax was due to lack of suitable measures and failure of co-ordination between the concerned Motor Vehicle Registering Authorities and the Excise and Taxation Department to ensure registration of all commercial vehicles under the HPPGT Act. Non-existence of appropriate instruction / provisions for the purpose, in the Act / Rules contributed to non-realisation of passenger and goods tax from the owners of the commercial vehicles. Delayed issuance of notifications for levy of AGT on the items covered in Schedule-II of the Act resulted in considerable revenue loss of the Government. The monitoring mechanism to keep control over collection of revenue was ineffective and internal audit system was also not in place.

### Recommendations

The State Government may consider:

- creating a dynamic master database with the ETC, based on information received from the Transport Department, to be used for monitoring the expected and actual revenue flows from the AETCs in respect of goods and passenger tax;
- prescribing suitable returns to be filed periodically by the AETCs with the ETC showing the consolidated status of all commercial vehicles with respect to revenue collection indicating details of defaulters;
- ensuring close monitoring of preparation of daily collection register and demand and collection registers by the DDOs and higher officers;
- erecting sufficient number of check-posts / barriers at all the entry points at borders and mining areas within the State to plug evasion of PGT / AGT on inter or intra transportation of goods and passengers; and
- making registration of commercial vehicles compulsory with the concerned AETCs simultaneously with their registration with the RTOs/ RLAs.



## Other Audit observations

### 5.4 Non-recovery of Special road tax / penalty (HRTC)

**5.4.1** Under Section 3-A of Himachal Pradesh Motor Vehicles Tax Act, 1972 as amended from time to time, there shall be levied, charged and paid to the State Government, monthly Special Road Tax (SRT) on all transport vehicles used or kept for use in State. SRT will be payable in advance on the 15<sup>th</sup> of every month. As per the Transport Department's notification dated 26 July 2006, deemed to have come into force on 31 July 2002, if the owner of a vehicle fails to pay the SRT due within the prescribed period, the taxation authority after giving opportunity of being heard, shall direct the owner to pay the penalty at the rate of 25 *per cent* per annum of the tax due.

Audit scrutiny of the SRT Registers of eight RTOs<sup>22</sup> (between August 2012 and March 2013) showed that the SRT for the period from April 2011 to March 2012 aggregating ₹13.60 crore<sup>23</sup> was neither being demanded by the RTOs nor deposited by the Himachal Road Transport Corporation (HRTC) till March 2013. The delay in deposit of tax ranged between one month and 24 months. Minimum penalty of ₹5.24 crore was also leviable upto March 2013 which has not been levied / recovered.

On this being pointed out (August 2012 and March 2013), the Director (Transport), Shimla intimated in February 2013 that in case of RTOs Chamba, Mandi and Nahan notices had been issued to the concerned RM of HRTC to deposit the outstanding amount of SRT while remaining RTOs intimated that either notices will be issued to the defaulters to deposit the tax or action would be taken as per the provisions of the Act / Rules.

### 5.4.2 Non-levy of penalty for late payment of SRT (PSC)

Audit scrutiny of the SRT Registers of two RTOs (between August 2012 and December 2012) showed that the SRT for the period from April 2009 to March 2012 aggregating ₹12.85 lakh was not paid by the Private Stage Carriages (PSC) within the prescribed period. The delay in payment of SRT ranged between 10 to 733 days for which penalty of ₹2.52 lakh<sup>24</sup> though leviable was not levied by the RTOs concerned.

Audit reported the matter to the Department and to the Government between September 2012 and March 2013; no reply has been received (November 2013).

### 5.5 Non / short realisation of SRT from Private Stage Carriages

As per the HPMVT (Amendment) Act, 1999, there shall be levied, charged and paid to the State Government, a special road tax on all transport vehicles used or

<sup>22</sup> Bilaspur, Chamba, Dharamsala, Hamirpur, Mandi, Nahan, Solan and Una

<sup>23</sup> Bilaspur: ₹1.06 crore, Chamba: ₹1.24 crore, Dharamsala: ₹4.86 crore, Hamirpur: ₹93.92 lakh, Mandi: ₹3.17 crore, Nahan: ₹94.38 lakh, Solan: ₹55.47 lakh and Una: ₹83.43 Lakh

<sup>24</sup> Bilaspur : ₹1.24 lakh and Shimla: ₹1.28 lakh



kept for use in Himachal Pradesh and will be payable in advance on the 15<sup>th</sup> of every month. If the owner of a vehicle fails to pay the SRT due within the prescribed period, the taxation authority after giving opportunity of being heard, shall direct the owner to pay the penalty at the rate of 25 *per cent* per annum of the tax due. The rates of SRT are based on the classification of routes on which vehicles are plying such as national highways, state highways, rural roads and local buses / mini buses operating within a radius of 30 kilometers. The rates of SRT for the above routes are as 6.04, 5.03 and 4.03 *paise* per seat per kilometer respectively effective from 1 April 2005.

Audit scrutiny of the records of SRT Registers of nine RTOs between September 2011 and February 2013, showed that in 172 cases out of 704 test checked cases, SRT amounting to ₹460.32 lakh was recoverable from the owners of PSCs. In 85 cases ₹332.69 lakh were paid by the owners of vehicles (PSCs) for the period between April 2008 and March 2012 where as in 87 cases for the period between July 2009 and March 2012 SRT had neither been demanded by the Department nor paid by the owners of the vehicles. This resulted in non / short realisation of SRT of ₹127.63 lakh. Besides, a minimum penalty of ₹21.99 lakh at the prescribed rate was also leviable for non-payment of tax as per the details given in **Table 5.6**:

Table 5.6

Name of RTOs	Audit conducted between	Period of SRT for which tax was due	No. of cases pointed out / test checked cases	Amount of SRT			Amount of Penalty leviable
				SRT Due	SRT paid	SRT non / short paid	
<b>Non-realisation of SRT from PSCs</b>							
Bilaspur, Chamba, Dharamsala, Kullu, Mandi, Nahan, Shimla, Solan and Una	September 2011 and February 2013	July 2009 and March 2012	87 / 427 Buses (PSC)	86.55	--	86.55	21.99
<b>Total</b>			<b>87 / 427</b>	<b>86.55</b>	<b>--</b>	<b>86.55</b>	<b>21.99</b>
<b>Short-realisation of SRT from PSCs</b>							
Bilaspur, Chamba, Dharamsala, Kullu, Shimla and Solan	August 2012 and February 2013	April 2008 and March 2012	85 / 277 Buses (PSC)	373.77	332.69	41.08	--
<b>Total</b>			<b>85 / 277</b>	<b>373.77</b>	<b>332.69</b>	<b>41.08</b>	<b>--</b>
<b>Grand Total</b>			<b>172 / 704</b>	<b>460.32</b>	<b>332.69</b>	<b>127.63</b>	<b>21.99</b>

On this being pointed out (September 2011 and February 2013), the Director (Transport), Shimla intimated (February 2013) that an amount of ₹2.65 lakh had been recovered by the RTO Chamba from seven vehicles while other RTOs stated that notices had been issued to the owners of the vehicles to deposit the outstanding amount of tax.

We reported the matter to the Government between September 2011 and March 2013; the reply has not been received (November 2013).

## 5.6 Non-realisation of taxes

### Token tax

Under the HPMVT Act, 1972, and rules made thereunder, token tax by vehicle owners is payable in advance quarterly or annually in the prescribed manner. As per Transport Department's notification dated 11 June 2007, token tax in the case of construction equipments vehicles and crane mounted vehicles (based on the maximum prescribed mass) was leviable at the rate of ₹8,000 (light), ₹11,000 (medium) and ₹14,000 (heavy) per annum with effect from June 2007. As per provisions, if an owner of motor vehicle fails to pay the tax due within the prescribed period, the taxation authority after giving him an opportunity of being heard, shall direct him to pay in addition to tax, a penalty at the rate of 25 per cent per annum of the tax due.

Audit test checked between June 2012 and March 2013 the Token Tax Registers and data maintained in 'VAHAN' software of 19 RLAs<sup>25</sup> and nine RTOs<sup>26</sup> and noticed that out of 17,878 test checked vehicles record, token tax amounting to ₹1.70 crore in respect of 4,031 vehicles<sup>27</sup> for the years 2010-11 and 2011-12, was not deposited by the vehicle owners. There was nothing on record to indicate that any initiative had been taken by the taxation authorities to recover tax from the defaulters. This resulted in non-recovery of token tax of ₹1.70 crore. Besides, penalty at the prescribed rate was also leviable for non-payment of tax.

On this being pointed out (between June 2012 and March 2013), the Director (Transport), intimated between October 2012 and March 2013 that seven RLAs and four RTOs, had recovered token tax of ₹9.32 lakh in respect of 229 vehicles<sup>28</sup> and efforts were being made to recover the balance amount. The remaining taxation authorities intimated (between July 2012 and March 2013) that either notices will be issued to the defaulters to deposit the tax or action would be taken as per the provisions of the Act / Rules.

The matter was reported to the Government between July 2012 and April 2013; their replies have not been received (November 2013).

<sup>25</sup> Amb Arki, Banjar Barsar, Chachayot at Gohar, Chopal, Churah, Dalhaousie, Hamirpur, Jaisinghpur, Kangra, Keylong, Manali, Mandi, Palampur, Parwanoo, Rohru Sarkaghat and Shimla (Rural),

<sup>26</sup> Bilaspur, Chamba, Dharamsala, Hamirpur, Mandi, Nahan, Shimla, Solan and Una

<sup>27</sup> Buses / stage carriages: 239 cases: ₹51.89 lakh; Construction equipment vehicles: 205 cases: ₹19.82 lakh; Goods carriers / other vehicles: 2,426 cases: ₹55.32 lakh; Tractors: 540 cases ₹11.78 lakh and Maxi / motor cabs: 621 cases: ₹31.56 lakh

<sup>28</sup> RLAs Amb: seven vehicles: ₹64,125, Arki: 22 Vehicle: ₹59,805, Chopal: two vehicles: ₹38,000, Kangra: 15 vehicles: ₹42,000, Mandi: 29 vehicle ₹52,000, Palampur: 14 vehicles: ₹73,350, Parwanoo: eight vehicles: ₹68,418 and RTOs Chamba: 87 vehicles: ₹3.22 lakh, Mandi: six vehicles: ₹21,526, Nahan: 18 vehicles: ₹49,771 and Shimla: 21 vehicles : ₹1.41 lakh

### 5.6.2 Entry tax

According to the Excise and Taxation Department notification of October 2010, issued under section 4 (1) of the Himachal Pradesh Tax on Entry of Goods into Local Area Act, 2010, the entry tax at the rate of five *per cent* shall be deposited on the invoice value of the motor vehicles purchased from any place outside the State for use in the State and registerable in Himachal Pradesh under the Motor Vehicle Act, 1988. Further provided that no Registering and Licensing Authority shall register such motor vehicle unless the person making application for registration furnishes proof of having deposited the tax payable under this section from the Assessing Authority.

Audit noticed between December 2012 and March 2013 from the registration files of the vehicles maintained in two RLAs<sup>29</sup> that entry tax amounting to ₹6.03 lakh in respect of nine vehicles for the period from December 2010 to March 2012 at the prescribed rate was not deposited by the owners of the vehicles with Excise and Taxation department as no proof of having deposited the entry tax was found in the registration file of the vehicles. The concerned RLA neither initiated any action for the recovery of entry tax due nor issued any notices to the owners of the vehicles. This resulted in non-realisation of tax of ₹6.03 lakh.

On this being pointed out (between December 2012 and April 2013), the RLAs intimated that action would be taken as per the provisions of the Act / Rules.

The matter was reported to the department and to the Government between January and April 2013; the reply has not been received (November 2013).

### 5.7 Non-deposit of user charges

For computerisation of all transport related activities in the offices of the Registering and Licensing Authorities, e-Governance Societies under the Chairmanship of the concerned Deputy Commissioner of the respective district have been functioning since September 2005. The Societies collect user charges as approved by the State Government and 25 *per cent* of these charges are required to be deposited in the Government account.

Audit noticed from the ‘Service charges collection registers’ of RLA Rohru and two RTOs<sup>30</sup> between July 2012 and January 2013 that e-Governance Societies collected ₹23.89 lakh on account of user charges during 2010-11 and 2011-12. However, 25 *per cent* of receipts collected on account of user charges which worked out to ₹5.97 lakh<sup>31</sup> was not deposited in the Government account as required. Thus, ₹5.97 lakh remained out of the Government account, which also resulted in understatement of revenue to that extent. However, the schedule of periodical payment of 25 *per cent* of the user charges and interest / penalty to be levied in case of delayed payments etc. had not been prescribed by the Government.

<sup>29</sup> Barsar and Churah

<sup>30</sup> RTO Chamba and Solan

<sup>31</sup> RLA Rohru: ₹1.57 lakh, RTO Chamba: ₹1.14 lakh and RTO Soaln: ₹3.26 lakh

After this was pointed out by audit (July 2012 and January 2013), the RLA, Rohru intimated that amount of user charges will be deposited in the government account and RTO, Chamba intimated that the action will be taken as per the provisions of the Act / Rules while RTO, Solan had not furnished the reply.

The matter was reported to the department and to the government between August 2012 and February 2013; their replies have not been received (November 2013).

## CHAPTER-VI FOREST RECIEPTS

### 6.1 Tax administration

The Principal Chief Conservator of Forests (PCCF) heads the Forest Department under the administrative control of the Principal Secretary (Forests) who is assisted by eight Conservators of Forests (CFs) in 37 territorial divisions. Each CF controls the exploitation and regeneration of forest activities being carried out by divisional forest officers (DFOs) under their control. Each DFO is in-charge of assigned forest related activities in his territorial division.

### 6.2 Results of audit

In 2012-13, test check of the records of 15 units relating to forest receipts showed non / short recovery of royalty, non-levy of interest / extension fee and other irregularities involving ₹71.97 crore in 100 cases, which fall under the following categories in the Table 6.1 below.

**Table 6.1**

(₹ in crore)			
Sr. No.	Particulars	Number of cases	Amount
1.	Non / short recovery of royalty	14	11.08
2.	Non-levy of interest	07	1.70
3.	Non-levy of extension fee	01	0.02
4.	Other irregularities	78	59.17
<b>Total</b>		<b>100</b>	<b>71.97</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹52.97 lakh in 109 cases which were pointed out in earlier years. An amount of ₹49.84 lakh was realised in nine cases during the year 2012-13.

A few illustrative cases involving non-realisation of Government revenue of ₹4.14 crore are discussed in the following paragraphs:

### 6.3 Illicit felling of trees

As per instructions of the State Government (April 1951), a damage report in order to take cognizance of a forest offence is required to be prepared / issued immediately by the beat forest guard. In case the offender is unknown, an immediate Damage report (DR) is required to be made and got signed by the nearest *lambardar* or influential person. The RO is required to investigate the cases and forward to the DFO for assessment of compensation or sanction of prosecution. Further, as per the instructions of the PCCF HP, the Block officer / RO are required to inspect the forests from time to time and take effective steps against illicit felling and report the matter to the higher authorities for taking action. DRs are required to be issued and got signed from the offenders, if known. The cases are to be registered with the police.

Audit noticed (between February 2013 and March 2013) from the "Register of offence cases" that 1,172 trees of various species having standing volume of 352.720 cu.m. were illicitly felled and taken away by the offenders. Audit scrutiny further showed that neither Damage Reports (except in one case) were issued nor any FIR had been registered with the police in any of these forest offence cases. The cases of illicit felling could not be detected by the field functionaries immediately after offence was committed. Thus, laxity in timely detection of the offences on the part of the field staff and reporting them to the police resulted in short seizure of 333.497 cu.m of standing volume of timber as against 352.720 cu.m., illicitly felled and taken away by the offenders. This resulted in loss of revenue to the tune of ₹94.69 lakh as per details given in **Table 6.2:**

Table 6.2

₹ in lakh								Remarks
Division / Forest Range	Offence detected by / date	Name of forest / roads	No. of trees (various species)	Total standing volume	Seized by field staff	Not seized by field staff	Value of timber not seized	Remarks
Chamba / Bharmour (Wild Life)	Public / 2012-13	Gowari and Tundah DPF	14	20.65	14.746	5.904	2.38	No DR was issued
Karsog	Unknown / between 2010-11 and 2011-12	Chattri to Janjehli, Narrash to Begu, Sushan to Gwalpur and Sainj to Nanj	89	105.186	NIL	105.186	35.84	DR had been issued in one case. Cases for diversion of forest land for non-forestry use had not been sent to MOEF / GOI.
Rampur Rampur	Unknown / between 2006-07 and 2010-11	Nanan to Dharoli road	1004	205.246	NIL	205.246	43.44	Case sent for approval for diversion of land by XEN PWD belatedly was rejected (October 2011) by MoEF NR Chandigarh
Shimla / Bhajji, Dhami, Tara devi & Koti	Unknown / 2011-12	Different forests	65	21.638	4.477	17.161	13.03	DR had not been issued in any of the cases.
<b>Total</b>			<b>1172</b>	<b>352.72</b>	<b>19.223</b>	<b>333.497</b>	<b>94.69</b>	



The omissions were pointed out to the Department and to the Government in April 2013. The replies have not been received (November 2013).

#### 6.4 Blocking of revenue due to non-disposal of seized timber

Section 52 of Indian Forest Act (IFA) provides for seizure of property liable to confiscation. As per departmental instructions of April 1951, either the seized timber or forest produce should be kept in the *spurdagi* (safe custody) of a *sapurdar*<sup>1</sup> or with the concerned field staff after it is accounted for in Form-17<sup>2</sup>. The timber / forest produce so accounted for is required to be disposed off after the offence has either been compounded or matter has been decided by the court. The PCCF instructed (April 1999) all the Conservator of Forests (CFs) that where the *spurdagi* of forest produce is taken for unduly long period, the concerned investigating officer should be asked to procure the orders of competent court for auctioning the seized property within 15 days, to minimise expenditure on watch & ward and deterioration / pilferage of such produce.

Audit scrutiny of timber forms of four divisions<sup>3</sup> between September 2011 and February 2013 showed that in eight Ranges, the Department had seized, during April 2008 to March 2012, timber measuring 276.687cu.m. The value of seized timber at market rates of 2011-12 worked out to ₹1.42 crore<sup>4</sup> including VAT of ₹17.14 lakh. Audit scrutiny further showed that the seized timber was lying in various depots of the Department without any record to indicate whether the concerned DFOs / investigating officers had taken any concrete steps or obtained the orders of Court to dispose of the seized timber within the time limit. Thus, non-disposal of seized timber not only resulted in blocking of revenue to that extent but also incurrence of expenditure on watch and ward and further deterioration of timber. No periodical return had been prescribed at the apex level to monitor the quantity of timber seized / disposed of.

After this was pointed out in audit (February 2013), the DFO, Kullu stated that the said timber would be confiscated after completing codal formalities and active action was in progress. The reply is not acceptable because the departmental officials did not take any timely action to dispose of seized timber.

The matter was reported to the Department and the Government between October 2011 and March 2013. The reply has not been received (November 2013).

#### 6.5 Non-Crediting of departmental charges

As per instructions of PCCF, Himachal Pradesh, issued in May 2004, departmental charges at the rate of 17.5 *per cent* were to be charged in the case of Compensatory Afforestation (CA) schemes to cover the establishment and infrastructure charges of the Department. As per PCCF letter of March 2003,

<sup>1</sup> A *lambardar* or any reliable person of a place

<sup>2</sup> Register of forest produce seized

<sup>3</sup> Kotgarh, Kullu, Lahaul Spiti and Nahan

<sup>4</sup> Kotgarh: vol: 33.458 cu.m ₹0.16 crore, Kullu: vol: 209.315 cu.m ₹1.10 crore, Lahaul Spiti: vol: 23.951 cu.m ₹0.13 crore and Nahan: vol: 9.963 cu.m ₹0.03 crore

the amount realised on account of the departmental charges was to be deposited as revenue of the department instead of depositing it in CA head.

Audit noticed in March 2013 from the records of Joginder Nagar forest division that the division had realised ₹37.47 lakh on account of CA inclusive of departmental charges of ₹5.58 lakh in respect of two cases of diversion of forest land for non-forestry purposes. The departmental charges so realised, were credited in CAMPA<sup>5</sup> account instead of revenue head of the Government. Thus, non-credit of departmental charges in the Government account resulted in understatement of revenue to that extent.

The matter was reported to the Department and the Government in April in 2013. The reply has not been received (November 2013).

## **6.6 Non-realisation of revenue due to illegal construction of roads on forest land**

The approval for diversion of the forests land for non-forestry purposes is granted by the GoI / MoEF, in favour of the user agency on payment of a specified sum in the form of net present value. As per the State Government's instruction of September 1991, the cost of trees standing on the forest land diverted for non-forestry purposes is to be recovered from the user agencies before handing over the area to them, in whose favour the approval for transfer of the forest land has been granted by the GoI. The standing trees coming in the alignment of a project to be undertaking by the user agency are marked and handed over to the Himachal Pradesh State Forest Corporation for exploitation. Besides, according to the instructions issued (April 1951) by the Himachal Pradesh Administration, in order to take cognizance of a forest offence, a damage report (DR)<sup>6</sup> is required to be prepared/ issued immediately by the Forest Beat Guard for offence committed and DR got accepted from the offender. In case, where offender escapes arrest on the spot, an immediate report is required to be made and got signed by the nearest *lambardar* or an influential person. The police help may also be sought in case of serious offences under the Indian Forest Act (IFA), 1927, involving prolonged investigation.

Audit scrutiny, between February and March 2013, of the records of offence cases of two DFOs<sup>7</sup> showed that HPPWD had constructed six roads without the prior approval of MoEF / GoI for the diversion of forest land for non-forestry purpose during the years 2006-07 and 2011-12 on 14.57 *hectare* of forest land. The field functionaries of forest department could not detect / stop the unauthorised construction of roads carried out by the HPPWD for years together. In three cases neither any DR was issued nor cases were registered with the police. Only in one case a damage bill for ₹4.95 lakh was raised against HPPWD by the department but its acceptance and recovery was pending till March 2013. However, on the requests of HPPWD the department in three

<sup>5</sup> Compensatory Afforestation Fund Management and Planning Authority

<sup>6</sup> DR contains date and time of offence, name and compartment of forest, details of damage, name / age and address of offender as well as of witnesses or of nearest village *lambardar*, if any.

<sup>7</sup> Karsog and Rampur

cases applied for approval to MoEF / GoI who rejected (between 19.10.2011 and 26.04.2012) the grant of approval after conducting site inspections. Thus, inaction on the part of department to detect and stop illegal construction of roads at the initial stages and initiate appropriate action as provided in the Act and instructions, resulted in enormous environmental loss, breakage of forest land, destruction of plantation besides, loss of ₹1.01 crore on account of Net Present Value (NPV) which otherwise was payable to the department in all the approved cases of transfer of forest land for non-forestry purposes. The departmental charges of ₹22.31 lakh were also leviable on the NPV.

(ii) Further audit noticed in January 2012 from the records of Nachan Forest Division that the HPPWD had constructed a road after obtaining the approval of GoI / MoEF. The Block Officer Daher of Forest Range, Thachi, conducted an enquiry and reported (April 2011) that 1,878.932 cu.m of muck excavated by the contractor during construction of road, was not disposed of in the earmarked sites and was illegally dumped in the forest area which is an offence under the Indian Forest Act. Audit scrutiny showed that the field functionaries of the department did not detect and stop the illegal dumping of muck and no damage report was issued against the PWD contractor during commission of offence. However, damage bill of ₹6.22 lakh had been issued (May 2011) which had no sanctity in the absence of DR and its acceptance by the offender. Thus, without chalking out the DR, recovery of damage bill could not be ensured and enforced in the Court of law for recovery. The chances of recovery of damage bill were bleak, consequently causing a loss of revenue of ₹6.22 lakh to the state exchequer.

The matter was reported to the Department and the Government between March and April 2013. The reply has not been received (November 2013).

## 6.7 Non / Short levy of interest on belated payment of royalty

The Pricing Committee (PC), constituted by the HP Government to determine the rates of royalty, terms and conditions for exploitation of resin blazes<sup>8</sup>, standing trees and other forest produce by the Himachal Pradesh State Forest Development Corporation (HPSFC) from time to time, in its meeting held in February 2005, decided that the HPSFC would pay interest at the rate of nine *per cent* per annum if payment of royalty instalments on resin blazes is not made by 15 September and 15 December. No interest shall be charged if the payment is made within the grace period of 90 days, otherwise HPSFC is liable to pay interest from the due date of payment of royalty.

Audit scrutiny of the lot files and details of payment of royalty etc., of three DFOs, in March 2013 showed that 4,16,847 resin blazes were handed over to HPSFC for exploitation during tapping season 2008 to 2012. Royalty aggregating to ₹154.80 lakh was payable in equal instalments by the HPSFC on 15<sup>th</sup> September 2008 and 15<sup>th</sup> December 2008 for tapping season 2008 and 15<sup>th</sup> September 2012 and 15<sup>th</sup> December 2012 for tapping season 2012. Royalty amounting to ₹66.61 lakh was paid late and ₹88.19 lakh had not been paid up to 31 March 2013. The delay in payment of royalty ranged between 107 and 742

<sup>8</sup> A mark of cut on *Chil* trees to tap resin

days. Interest of ₹7.74 lakh at the rate of nine *per cent* per annum though leviable was not / short levied by the Department as per details given in the table 6.3:

Table: 6.3

₹ in lakh							
Sr. No.	Name of division	Years of exploitation / No. of blazes	Delay (in days) in payment of royalty	Amount of royalty	Interest leviable / levied	Non / short levy of interest	Royalty paid between
1.	Mandi	2008 / 1,21,000 were tapped out of 1,37,612	363 and 740	33.52	4.04 / nil	4.04	13 September 2009 and 25 September 2010
2.	Joginder Nagar	2008 / 1,19,475	179 and 742	33.09	2.45 / 2.07	0.38	13 March 2009 and 27 September 2010
3.	Karsog	2012 / 1,76,372	107 and 198	88.19	3.32 / nil	3.32	unpaid upto 31 March 2013
<b>Total</b>		<b>4,16,847</b>		<b>₹154.80</b>	<b>₹9.81 / 2.07</b>	<b>₹7.74</b>	

The matter was reported to the Department and the Government in April 2013. The replies have not been received (November 2013).

### 6.8 Irregular deletion of resin blazes

After nationalisation of forest working, resin tapping work of resin lots rests exclusively with the Corporation, being the sole agent for the purpose. The PCCF vide instructions dated May 2000, had directed all the DFOs that the proposal for deletion of blazes be prepared by the respective DFOs by the end of the tapping season (latest by 15<sup>th</sup> December) every year, so that the approval of the CF is obtained well before the commencement of the ensuing tapping season (15<sup>th</sup> March).

Audit noticed (between February and March 2013) from the resin blazes records of four divisions<sup>9</sup> that 62,771 resin blazes were not handed over for tapping to Corporation during resin tapping seasons of the year 2008, 2010, 2011 and 2012. The prior requisite approval of the CF to delete these blazes had not been obtained. Thus, the deletion of blazes without seeking prior approval of CF was irregular which resulted in loss of revenue of ₹34.63 lakh. On being pointed out, the DFOs did not furnish any reply.

The matter was reported to the Department and the Government in April 2013. The replies have not been received (November 2013).

<sup>9</sup> Karsog, Mandi, Shimla and Renukaji

## CHAPTER-VII OTHER TAX AND NON-TAX RECIEPTS

### 7.1 Tax administration

This chapter consists of receipts from Power sector projects, Mining, Industries, Irrigation & Public Health and Public Works Departments. The tax administration is governed by Acts and Rules framed separately for each Department.

### 7.2 Results of audit

In 2012-13, test check of the records of 35 units relating to the Public Works Department showed non / short credit of lapsed deposits into Government revenue account and other irregularities amounting to ₹520.85 crore in 93 cases, which fall under the following categories as indicated in **Table 7.1**:

**Table 7.1**

Sr. No.	Categories	₹ in crore)	
		Number of cases	Amount
1.	Non / short credit of lapsed deposits into Government revenue account	25	7.06
2.	Other irregularities	68	513.79
<b>Total</b>		<b>93</b>	<b>520.85</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹511.17 crore in 37 cases which were pointed out in earlier years. An amount of ₹242.98 crore was realised in 11 cases during the year 2012-13.

A few illustrative cases involving ₹494.55 crore are discussed in the following paragraphs.

#### A. Multi Purpose Projects and Power Department

### 7.3 Non-deposit of electricity duty into Government account

According to the Himachal Pradesh Electricity (Duty) Act, 1975, and the Rules made there under, electricity duty (ED) is leviable on energy supplied by the Himachal Pradesh State Electricity Board (Board) to consumers. Under the rules *ibid*, the duty collected by the Board in monthly bills for the energy supplied, shall be deposited into the Government account half yearly i.e. in April and October every year. There is no provision for levy of interest / penalty for non / belated depositing of electricity duty into the Government account.

Audit collected the information from the office of the Chief Electrical Inspector (CEI) and noticed (April 2013) that ED of ₹514.41 crore realised by the Board upto 30 September 2012, was payable by March 2013 against which ₹21.01 crore had been deposited by the Board on 2<sup>nd</sup> April 2012. The balance amount of ₹493.40 crore of ED had not been deposited by the Board till April 2013.



This resulted in non-deposit of ED amounting to ₹493.40 crore into the Government account. Thus, in absence of the provision for levy of interest / penalty on delayed / non-payment of electricity duty, the Board was making payment of Government dues at its own will and not on due dates. In case the Board had made payments on due dates, the Government could have saved the minimum interest liability of ₹34.06 crore on loans raised by it, calculated at the rate of 8.42 per cent (Borrowing rates).

After this was pointed out (April 2013) by audit, the Chief Electrical Inspector intimated (June 2013) that the administrative approval / expenditure sanction amounting to ₹240.00 crore had been given as equity and subsidy Tariff Roll Back against Electricity Duty (between October and November 2012) subject to the condition that the entire amount to be transferred to relevant receipt head by way of contra-Credit without involving any cash transaction. The action of the Government had by-passed the provisions of the Financial Rules which *inter alia* state that direct utilisation of Government receipts towards expenditure and non-deposit thereof in the Government account was in contravention of the Financial Rules. Further reply has not been received (November 2013).

The matter was reported to the Government in May 2013. The replies have not yet been received (November 2013).

## B. INDUSTRIES DEPARTMENT

### 7.4 Non / short realisation of dead rent and interest

As per Himachal Pradesh Minor Minerals (Concession) Revised Rules 1971, dead rent<sup>1</sup> of the leased area or royalty due from the mineral extracted from the leased area whichever is higher shall be payable by a lessee. The Government of India, Ministry of Mines vide notification dated 13.08.2009 had revised the rates of dead rent in respect of leases for the period exceeding fourth years from ₹400 to ₹1,000 per *hectare* per annum with effect from 13 August 2009 for low value minerals. In case of default in payment of royalty or dead rent for more than 60 days from the due date of payment, interest at the rate of 24 per cent per annum is also leviable.

Audit test checked the records of two MOs, (Shimla and Solan) between August 2011 and February 2012 and noticed that seven lessees with leased area of 243.2940 *hectares* did not extract any produce during 2007-08 to 2010-11. Therefore, these lessees were liable to pay dead rent of ₹8.88 lakh including interest of ₹2.15 lakh. However, one lessee had paid dead rent of ₹1.51 lakh instead of ₹3.78 lakh recoverable from him. This resulted in non-recovery of dead rent and interest amounting to ₹7.37 lakh including interest.

After this was pointed out by audit (August 2011 and March 2012), the Department intimated in July 2013 that an amount of ₹3.72 lakh had been recovered in respect of four lessees<sup>2</sup> and the notices had been issued to the

<sup>1</sup> Dead rent is the rent fixed by the Government for mines without considering the fact whether the mines are profitable or not and minerals are being extracted from the mines or not.

<sup>2</sup> M/s Kanwar Singh: ₹28,907, Jagdish Chand: ₹7,506 and Krishan Chand: ₹1.08 lakh and NMDC Solan ₹2.27 lakh

remaining defaulters to deposit the outstanding amount of dead rent. Further report on recovery has not been received (November 2013).

## C PUBLIC WORKS DEPARTMENT

### 7.5 Non-credit of lapsed deposits to the Government revenue account

The Himachal Pradesh Financial Rules, 1971, stipulate that all balances which remained unclaimed for more than three complete account years shall, at the close of March in each year, be credited to the Government account by means of transfer entries. The rules also forbid direct utilization of receipts towards expenditure.

Audit test checked security / deposits registers of eight Buildings and Roads divisions<sup>3</sup> between May 2012 and February 2013 and found that an amount of ₹1.08 crore<sup>4</sup> for 1,879 items deducted from the contractors bills on account of deposits during 1998-99 to 2008-09, was not credited to the Government account as required. Thus, ₹1.08 crore remained out of the revenue account, which also resulted in understatement of revenue to that extent.

After this was pointed out between May 2012 and February 2013, the Government intimated (September 2013) that an amount of ₹48.98 lakh for 957 items had been adjusted. Further report on recovery has not been received (November 2013).

Shimla  
The



(Satish Loomba)  
Pr. Accountant General (Audit)  
Himachal Pradesh

Countersigned

New Delhi  
The



(Shashi Kant Sharma)  
Comptroller and Auditor General of India

<sup>3</sup> Chamba, Dehra, Ghumarwin, Hamirpur, Jubbal, Karsog, Kullu-II and Padhar

<sup>4</sup> 2006-07: 925 items: ₹53.40 lakh; 2007-08: 261 items: ₹17.63 lakh and 2008-09: 693 items: ₹36.65 lakh



## **APPENDICES**



**Appendix-I**  
**Reference: Para-1.10 'Audit planning' (2012-13)**

<b>Sr. No.</b>	<b>Principal head</b>	<b>Units audited</b>
1.	Sales tax	12
2.	Motor Vehicle tax	39
3.	Stamp & Registration Fee	62
4.	Passengers and Goods Tax	06
5.	State Excise Duty	72
6.	Forest	15
7.	Mining	00
8.	Entertainment Duty	00
9.	Luxury Tax	00
10	MP Barrier	00
11.	Non-tax Receipts	35
<b>Total</b>		<b>241</b>

**Appendix -II**

**Reference Para: 2.9 'Evasion of tax due to acceptance of invalid, duplicate and defective 'C' forms'**

Name of unit	Name of the firm M/s	Year of assessment Date of assessment	Differential amount of tax Leviable Turnover exempted	Interest leviable u / s 19 (i) of HP VAT Act	Total	Reasons for rejection of the forms
AETC BBN Baddi	Advantec Coils Pvt. Ltd. Sol-III 8669 / 8523	2007-08 7-3-12	1000229 8697643	835191	1835420	Two forms were addressed to Delhi and in one form the address of the selling dealer was not given. (3 forms)
	Arihant Industries 8566 / 8422	2007-08	526762 4580539	439846	966608	Forms were issued to Arihant Jaipur, converted by overwriting for Baddi. (11+15=26 forms)
		2008-09 19.11.11	589101 5122617	385861	974962	
	Glen-marc Pharmaceuticals Ltd. 8901 / 8788	2008-09 16.06.11	114195 3806484	74798	188993	4 Forms did not pertain to the year of assessment
	Scott Innovation wire (P) Ltd. 02030100764	2006-07 23.07.12	22952 255025	23296	46248	The duplicate copy of the form was submitted. (1 form)
	Alankar Stationery (P) Ltd. 9931 / 8147	2006-07 31.03.12	35100 390000	35627	70727	The duplicate copy of the form was submitted. (1 form)
	VBL Innovation Ltd. 8215 / 8147	2006-07 29.08.11	7860 87337	7978	15838	The duplicate copies of the forms were submitted. (2 forms)
	BDS Décor & Prejobs (P) Ltd. 02030100061	2007-08 30.03.12	246819 2146250	206094	452913	The duplicate copy of the form was submitted. (1 form)
	Shiva Traders 11412 / 10991	2009-10 24.05.11	2805 140250	1332	4137	The duplicate copy of the form was submitted. (1 form)
	Havells India Ltd. 8091 / 8028	2007-08 06.01.11	18010 156611	15038	33048	The duplicate copy of the form was submitted. (1 form)
	HimaChem Ltd. 7698 / 7652	2008-09 29.05.11	8317 277219	5448	13765	The duplicate copy of the form was submitted. (1 form)
	Innova Caplab 02030100615	2008-09 02.01.12	35166 1172190	23034	58200	The duplicate copies of the forms were submitted. (3 forms)
<b>11</b>		<b>2607316 26832165</b>	<b>2053543</b>	<b>4660859</b>		
AETC Nahan	Standard Polyvinyl 378 / 7044	2007-08 30.08.10	120294 6014714	105859	226153	The dealer had sold the raw material against the 'C' forms. (3 forms)
		2008-09 19.07.11	98385 9838460	68870	167255	
	<b>1</b>		<b>218679 15853174</b>	<b>174729</b>	<b>393408</b>	
AETC Solan	Dev Resins Parwanoo Sol-III 5109 / 5244	2009-10 28.09.11	1615245 53841494	767241	2382486	Forms were issued to Dev Resin –Baddi but used by Dev Resin Parwanoo (12 forms)
			30664 1533188	14565	45229	
	Sinhal Udyog-Sol-111 10914 / 10762	2008-09 20.03.12	150410 1203283	98519	248929	8 forms were issued to the firm at Surat. 3 forms pertained to other years. 2 forms have unattested cutting.
<b>2</b>		<b>1796319 56577965</b>	<b>880325</b>	<b>2676644</b>		
AETC Una	Sukhjit Agro Industries, Una-III 5141 / 4971	2009-10 2008-09 21.07.11	38226 1274189	19304	57530	Concessional rate of tax was allowed against sale (4 forms) not pertaining to assessment year. The amount of ₹148125 in one form was taken as ₹1481245. (1 form)
			39994 1333120	27396	67390	
			<b>78220 2607309</b>	<b>46700</b>	<b>124920</b>	
	<b>15</b>	<b>4700534 101870613</b>	<b>3155297</b>	<b>7855831</b>		
<b>Total sale exempted (₹ in crore)</b>			<b>₹0.47 ₹10.19</b>	<b>₹0.32</b>	<b>₹0.79</b>	



## Appendix-III

## Reference Para: 2.12 'Incorrect exemption of tax due to misuse of declaration of 'F'-Forms'

₹ in crore							
Name of the AETC	Period of Assessment	Assessed between	No. of dealers	Exemption of tax allowed on branch transfer of stock against 'F'-form	Tax effect		Remarks
					Tax	Interest	
AETC, BBN-Baddi	2006-07 to 2008-09	May 2011 and March 2012	4	3.95	0.37	0.34	Eight 'F'-forms were not signed by the purchasing dealer. In three 'F'-forms, transactions covered were for more than one calendar month and four forms were duplicate copies.
AETC, Kangra	2009-10	December 2011	1	1.37	0.06	0.02	Only one 'F' forms submitted was for the whole year for gross turnover of ₹1.90 crore, and not on calendar month basis. As against stock transfer of ₹1.37 crore, one 'F'-form was submitted for ₹1.27 crore escaping ₹10.10 lakh from levy of tax.
AETC, Solan	2008-09 and 2009-10	June 2011	1	0.21	0.03	0.02	Eight 'F' forms were addressed to the dealer of Una district instead of Solan. Other Eight 'F'-forms were the duplicate copies.
AETC, Una	2005-06 and 2008-09	July and August 2011	2	4.74	0.18	0.14	Nine 'F'-form pertained to other assessment year and nine 'F'-forms were the duplicate copies. Two 'F'-forms transactions covered were for more than one calendar month.
<b>Total</b>			<b>8</b>	<b>₹10.27</b>	<b>₹0.64</b>	<b>₹0.52</b>	

**Appendix-IV**  
**Reference Para: 3.3.2.3: Non- accountal of RS / ENA and MMS**

(₹ in lakh)							
Sl No.	Name of AETCs	Name of licensees	Period	Permit No. and date	Nature of spirit / Quantity in Pls	Rate of excise duty	Amount of excise duty recoverable
1	<b>Kangra</b>	M/s Bindal Associates, Chhanni	2011-12	19 / 2011-12 22.06.2011	<u>Matured Malt Spirit</u> 1380	₹ 25 per proof litre	34,500
2	<b>Mandi</b>	M/s Goverdhan Bottling plant, Pvt. Galu	2009-10	5 / 2009-10 01.07.2009	Rectified Spirit 26,720	₹ 23 per proof litre	6,14,560
			2009-10	18 / 2009-10 09.02.2010	Extra Natural Alcohol 33,600	₹ 23 per proof litre	7,72,800
			2011-12	421 / 2011-12 03.08.2011	Extra Natural Alcohol 20,160	₹ 25 per proof litre	5,04,000
<b>Total</b>		<b>2 Licensees</b>		<b>4 permits</b>	<b>MMS 1,380 26,720</b> <b><u>ENA=53,760</u></b> <b>Total=81,860</b>		<b>19,25,860</b> <b>Say ₹19.26 lakh</b>

## Appendix-V

Reference: Para 3.3.6-‘Non- recovery of salaries of excise establishment posted at distillery / bonded ware houses’

(₹ in lakh)					
Sl No.	Name of AETCs	Name of licensees	Period	Amount of Salaries required to be recoverable	
<b>1</b>	<b>BBN Baddi</b>	1) M/s PDM Baddi	2011-12	5.81	
		2) M/s Subacchus, Nalagarh	2011-12	2.45	
		3) M/s Himalayan Gold, Nalagarh	2011-12	2.68	
		<b>3 licensees</b>			<b>10.94</b>
<b>2</b>	<b>Kangra</b>	1) M/s Bindal Associates, Chhanni	2011-12	6.70	
		2) M/s VRV, Foods Ltd. Sansarpur	2011-12	6.09	
		<b>2 Licensees</b>			<b>12.79</b>
<b>3</b>	<b>Sirmour at Nahan</b>	1) M/s Tiloksons Brewery & Distillery, Manthapal	2008-09 to 2010-11 2011-12	26.05 7.09	
		2) M/s Yamuna Beverage, Nariwal	2008-09 to 2010-11 2011-12	18.81 2.77	
		3) M/s Hill View Distillery, Shambhuwala	2008-09 to 2010-11 2011-12	8.26 5.42	
		4) M/s Himgiri Distillery, Mirpur Kotla	2008-09 to 2010-11 2011-12	6.51 2.93	
		<b>4 Licensees</b>			<b>77.84</b>
		<b>4</b>	<b>Solan</b>	1) M/s MM Ltd., Solan Brewery	2010-11 2011-12
2) M/s MM Ltd., Kasauli Distillery	2010-11 2011-12			0.84 0.32	
3) M/s KM Distillery, Parwanoo	2009-11 2011-12			16.42 4.98	
4) M/s HPGIC, Parwanoo	2010-11 2011-12			5.33 3.93	
<b>4 Licensees</b>				<b>38.02</b>	
<b>5</b>	<b>Una</b>			1) M/s Ranger Breweries Ltd., Una	2011-12
<b>Total</b>		<b>14 Licensees</b>		<b>153.44 lakh Say ₹1.53 crore</b>	

Appendix-VI

Reference: Paragraph 4.3: "Incorrect preparation of valuation reports by Patwaris"

Sr. No.	Name of the SR unit	Number of cases involved	Consideration value as per the actual price applicable	Consideration value taken on the basis of valuation report prepared by the Patwaris on which conveyance deed executed	Deficit amount		Total
					Stamp duty	Registration fee	
1	Barsar	6	140.15	15.57	6.23	0.36	6.59
2	Banjar	39	275.72	137.83	6.87	1.42	8.29
3	Bharwai	10	98.57	72.71	1.29	0.26	1.55
4	Bilaspur	20	363.31	292.46	3.53	0.70	4.23
5	Fatehpur	7	48.09	30.84	0.86	0.18	1.04
6	Ghumarwin	23	189.76	87.21	5.13	0.41	5.54
7	Hamirpur	16	116.22	91.85	1.22	0.41	1.63
8	Jhanduta	9	59.40	39.22	1.01	0.19	1.20
9	Keylong	2	23.20	7.60	0.78	0.25	1.03
10	Kullu	28	270.07	184.68	4.21	0.88	5.09
11	Kupwi	3	4.94	0.54	0.22	0.09	0.31
12	Moorng	6	26.15	6.29	0.99	0.40	1.39
13	Nalagarh	16	3,263.35	499.49	138.24	0.35	138.59
14	Nihari	17	165.62	64.33	5.06	0.46	5.52
15	Padhar	13	90.38	69.63	1.04	0.23	1.27
16	Sarkaghat	1	2.08	1.28	0.04	0.02	0.06
17	Shimla (Rural)	38	1,490.24	1,178.57	15.58	0.80	16.38
18	Solan	21	593.48	495.04	4.86	0.27	5.13
19	Sunder-nagar	20	1,616.83	1,454.31	5.49	0.14	5.63
20	Sunni	17	202.07	95.77	5.31	0.40	5.71
21	Una	19	98.47	66.51	1.60	0.50	2.10
<b>Total</b>		<b>331</b>	<b>9,138.10</b> say ₹91.38 crore	<b>4,891.73</b> say ₹48.92 crore	<b>209.56</b> say ₹2.09 crore	<b>8.72</b> say ₹0.09 Lakh	<b>218.28</b> say ₹2.18 crore

## Appendix-VII

Reference: Paragraph 4.4: Incorrect determination of market value of properties

Sr. No.	Name of the unit and Period of Audit	Number of cases involved	Market value of property as per the actual price applicable	Market value determined on the basis of valuation report prepared by the <i>Patwaris</i>	Deficit amount		Total
					Stamp duty	Registration fee	
1	<u>SR Bilaspur</u> 2011	1	65.49	15.00	2.52	--	2.52
2	<u>SR Hamirpur</u> 2011	1	310.33	6.50	15.19	0.12	15.31
3	<u>SR Indora</u> 2010	6	136.78	67.14	3.48	0.29	3.77
4	<u>SR Kullu</u> 2011	5	51.64	27.09	1.09	0.09	1.18
5	<u>SR Nihari</u> 2010-11	1	75.89	12.00	3.19	0.01	3.20
6	<u>SR Nalagarh</u> 2011	5	544.27	371.68	8.62	0.05	8.67
7	<u>SR Una</u> 2010-11	5	104.98	44.64	3.02	0.29	3.31
<b>Total</b>		<b>24</b>	<b>₹1,289.37</b>	<b>₹544.05</b>	<b>₹37.12</b>	<b>₹0.85</b>	<b>₹37.97</b>



Appendix-VIII

Reference: Paragraph 4.5-Short realisation of stamp duty and registration fee due to change of classification of land

₹ in lakh

Name of the SR unit	Deed No. / Area of land	Classification of land required to be taken into consideration / actually sold	Classification of land taken by the Patwaris for valuation of land	Market value of property as per the actual price applicable	Market value determined on the basis of valuation report prepared by the Patwaris	Deficit amount		Total
						Stamp duty	Registration fee	
Nahan	69 / 2011 395 Biswa	Kuhl Doyam Banjar Kadim Na- Kabil	Banjar Kadim	69.24	68.77	0.02	0.0	0.02
	713 / 2011 12 Biswa	Banjar Jadid Gair Mumkin Structure of Factories	Banjar Kadim	16.51	13.36	0.17	0.05	0.22
	280 / 2011 285.75 Sq. Mtrs	Makanaat Map of House	Kuhl Abbal	157.76	4.63	7.66	0.16	7.82
	295 / 2011 60 Biswa	Gair Mumkin Factories Gair Mumkin Rasta	Banjar Kadim Banjar Jadid	67.55	34.48	1.65	0.0	1.65
Solan	1060 / 2011 01-12 hector	Gair Mumkin Makan	Banjar Kadim	4.12	2.08	0.10	0.04	0.14
	277 / 2011 02-06 hector	Kuhl Doyam Gair Mumkin Makan	Banjar Kadim	65.57	31.00	1.73	0.0	1.73
	288 / 2011 00-04-80 hector	Gair Mumkin Makan Ghasani	Banjar Kadim	10.94	9.86	0.05	0.06	0.11
	1150 / 2011 127 Sq. Mtrs	Gair Mumkin Makan Ghasani Banjar Kadim	Banjar Kadim	5.40	4.40	0.05	0.02	0.07
	430 / 2011 5 Bigha	BanjarDoyam Gair Mumkin Todda	Banjar Kadim	1.48	0.80	0.03	0.01	0.04
	1353 / 2011 06 Biswa	Kuhl BanjarDoyam Ghasni	Ghasni Banjar Kadim	4.28	2.76	0.08	0.03	0.11
	1181 / 2011 296 Sq. mtrs	Gair Mumkin Makan Structure of House	Ghasni Banjar Kadim	15.20	2.86	0.62	0.19	0.81
	1298 / 2011 09 Biswa	Gair Mumkin Makan Gair Mumkin Todda Ghasni	Banjar Kadim Ghasni	25.14	20.00	0.26	0.0	0.26
<b>Total</b>				<b>₹443.19</b>	<b>₹195.00</b>	<b>₹12.42</b>	<b>₹0.56</b>	<b>₹12.98</b>

## Appendix-IX

Reference: Paragraph 5.3.9.1 (i) 'Non / delayed authorisation / registration of firms for levy and collection of AGT'

Sr. No.	Name of AETC unit	Year	Date of authorisation between	Total No. of firms authorised for collection of AGT
<b>Year 2007</b>				
1	Baddi	2007	14.06.2007	28
2	Kangra	2007	14.06.2007	19
3	Kullu	2007	14.06.2007	5
4	Sirmour	2007	14.06.2007	5
<b>Total</b>				<b>57</b>
<b>Year 2011</b>				
1	Baddi	2011	28.09.2011	28
2	Kangra	2011	28.09.2011	26
3	Sirmour	2011	21.01.2011 and 28.09.2011	14
4	Solan	2011	21.01.2011 and 20.09.2011	9
5	Una	2011	21.01.2011	2
<b>Total</b>				<b>79</b>
<b>Year 2012</b>				
1	Bilaspur	2012	14.01.2012 and 08.09.2012	3
2	Sirmour	2012	21.01.2012	2
3	Solan	2012	21.01.2012	3
<b>Total</b>				<b>8</b>
<b>G. Total</b>				<b>144</b>



## **GLOSSARY**



### Glossary of Abbreviations

Abbreviation	Full form of abbreviation
AAs	Assessing Authorities
ACF	Assistant Conservators of Forest
AETCs	Assistant Excise and Taxation Commissioners
AGT	Additional Goods Tax
ALR	Arrear of Land Revenue
BBMB	Bhakra Beas Management Board
BDO	Block Development Officer
BEs	Budget Estimates
BSSR	Bottled Spirit Store Room
BWH	Bonded Ware House
CA	Compensatory Afforestation
CAATs	Computer Aided Audit Techniques
CAMPA	Compensatory Afforestation fund Management and Planning Authority
CEI	Chief Electrical Inspector
CF	Conservator of Forest
CGCR	Certain Goods Carried by Road
CL	Country Liquor
CS	Country Spirit
CST	Central Sales Tax
Cu.m.	Cubic meter
CZ	Central Zone
DC	Deputy Commissioner
DCR	Demand and Collection Register
DDO	Drawing and Disbursing Officer
DFOs	Divisional Forest Officers
DVCs	District Valuation Committees
DR	Damage Report
ED	Electricity Duty
ENA	Extra Neutral Alcohol
ETC	Excise and Taxation Commissioner
ETOs	Excise and Taxation Officers
FCA	Forest Conservation Act
FS	Flying Squad
GST	General Sales Tax
GTO	Gross Turn Over
HP	Himachal Pradesh
HP VAT	Himachal Pradesh Value Added Tax
HPGST	Himachal Pradesh General Sales Tax
HPID	Himachal Pradesh Infrastructure Development
HPMM	Himachal Pradesh Minor Minerals
HPMVT	Himachal Pradesh Motor Vehicles Taxation
HPPGT	Himachal Pradesh Passengers and Goods Taxation
HPPGTR	Himachal Pradesh Passengers and Goods Tax Rules
HPPWD	Himachal Pradesh Public Works Department
HPSFC	Himachal Pradesh State Forest Corporation
HRTC	Himachal Road Transport Corporation
IAW	Internal Audit Wing
IBM	Indian Bureau of Mines
IDEA	Interactive Data Extraction and Analysis

IFA	Indian Forest Act
IGR	Inspector General of Registration
IMFL	Indian Made Foreign Liquor
IMFS	Indian Made Foreign Spirit
IR Act	Indian Registration Act
IRs	Inspection Reports
IS Act	Indian Stamp Act
IT	Information Technology
ITC	Input Tax Credit
MGQ	Minimum Guaranteed Quota
MIS	Management Information System
MO	Mining Officer
MoEF	Ministry of Environment and Forests
MMS	Matured Malt Spirit
MPP and P	Multi Purpose Projects and Power
MT	Metric Tonne
MVT	Motor Vehicles Tax
NH	National Highway
NIC	National Informatics Centre
NPV	Not Present Value
NZ	North Zone
PAG	Principal Accountant General
PC	Pricing Committee
PCCF	Principal Chief Conservator of Forest
PDR	Punjab Distillery Rules
PGT	Passenger and Goods Tax
PLs	Proof Liters
PSCs	Private Stage Carriages
PSPC	Punjab State Power Corporation
RF	Registration fee
RLAs	Registering and Licensing Authorities
RS	Rectified Spirit
RTOs	Regional Transport Officers
SD	Stamp Duty
SDCs	Sub-Divisional Collectors
SFC	State Financial Corporation
SH	State Highway
SRs	Sub Registrars
SRT	Special Road Tax
SSR	Spirit Store Room
STA	State Transport Authority
SZ	South Zone
TTO	Taxable Turn Over
WP	Working Plan