PREFACE

This Report for the year ended 31 March 2010 has been prepared for submission to the Lieutenant Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the Government of National Capital Territory (NCT) of Delhi is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales/value added tax, state excise, taxes on motor vehicles, stamp duty and registration fees and other tax and non-tax receipts of the NCT of Delhi.

The cases mentioned in this Report are among those which came to notice in the course of test check of records during the year 2009-10 as well as those which came to notice in the earlier years but could not be included in the previous years' reports.

OVERVIEW

This Report contains 18 paragraphs including one review involving underassessment/short payment/loss of revenue etc. of ₹ 1,764.20 crore. Some of the major findings are mentioned below:

I. General

The total receipts of the State during the year 2009-10 amounted to ₹ 20,451.33 crore, of which the revenue raised by the State Government was ₹ 16,915.25 crore and receipts from the Government of India were ₹ 3,536.08 crore. The revenue raised constituted 83 *per cent* of the total receipts of the State.

(Paragraph 1.1)

At the end of June 2010, 6002 audit observations involving ₹ 3,920.65 crore relating to 341 inspection reports issued upto December 2009 remained outstanding.

(Paragraph 1.2.1)

Test check of the records of the Departments of trade and taxes, state excise, entertainment, transport, registration etc. conducted during the year 2009-10, revealed underassessment/short payment/loss of revenue etc. aggregating ₹ 3,140.37 crore in 2696 cases. During the course of the year 2009-10, the Departments concerned accepted underassessments and other deficiencies of ₹ 49.95 crore in 138 cases. Of these, the Department recovered ₹ 0.39 crore in 49 cases during the year 2009-10.

(Paragraph 1.5)

II. Sales Tax/Value Added Tax

Irregular claim of exemption/concessional rate of tax without furnishing proper statutory forms resulted in short payment of tax of ₹ 1,262.26 crore including interest of ₹ 242.39 crore.

(Paragraph 2.13.1)

Application of incorrect rate of tax resulted in short payment of tax of ₹ 10.41 crore including interest of ₹ 2.82 crore.

(Paragraph 2.15)

Excess claim of input tax credit resulted in short payment of tax of ₹ 4.49 crore including interest of ₹ 1.13 crore.

(Paragraph 2.16)

Excess claim of input tax credit of ₹ 10.86 lakh in respect of goods transferred on 'F' form.

(Paragraph 2.24)

Irregular deduction allowed on account of labour and services in case of two dealers resulted in short payment tax of ₹ 33.80 lakh.

(Paragraph 2.25)

Input tax was wrongly claimed on purchase of capital goods to the tune of ₹ 7.78 lakh.

(Paragraph 2.27)

III. Stamp Duty and Registration Fee

Review of **Levy and Collection of Stamp Duty and Registration Fee** revealed the following:

There is no mechanism to ensure that stamp duty and registration fee had been levied on all the instruments due for registration as per provisions of the Acts. The non-levy of stamp duty and registration fee on documents such as debentures, shares allotted, lease deeds, etc. due for registration under the Acts but not presented for registration had deprived the Government of revenue of ₹ 464.38 crore.

(Paragraph 3.7.6)

Remission of fee on any instrument executed in respect of (a) a foreign or Commonwealth Diplomatic Mission in India, (b) any registered society, and (c) mortgage executed by a Government officer for securing advance for purchasing or constructing his own house; without an enabling provision as amendment to the Indian Registration Act was not legal and thus invalid.

(Paragraph 3.7.7)

The Catalogue of 'permanent records', 'stock register of receipt book' and 'movement register' were not being maintained in all the 13 Sub-Registrar Offices audited.

(Paragraph 3.7.9)

Non-reckoning of minimum circle rates for valuation of properties, introduced by the Government, resulted in short payment of stamp duty of ₹ 2.34 crore.

(Paragraph 3.7.10)

Failure to include interest and capitalisation and other costs in the consideration resulted in short payment of stamp duty of ₹ 41.41 lakh.

(Paragraph 3.7.11)

Misclassification of instruments and non-registration of Sale Deeds relating to agreement to sell resulted in non-realisation of stamp duty of ₹ 8.27 lakh.

(Paragraphs 3.7.12 and 3.7.13)

Stamp papers worth ₹ 1,243.09 crore, not in use, were lying unsold in Delhi Treasury for more than 12 years. Non-judicial Stamp papers of ₹ 22.71 crore as per records of Delhi Treasury were lying in stock with the State Bank of India, out of stamp papers worth ₹ 140.80 crore delivered to them after introduction of e-stamping.

(Paragraphs 3.7.14.1 and 3.7.14.2)

IV State Excise

Failure of the Department to recover additional luxury tax and interest resulted in short recovery amounting to ₹ 12.34 lakh.

(Paragraph 4.8)

CHAPTER I
GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of National Capital Territory (NCT) of Delhi during the year 2009-10, grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(₹ in crore)

Sl. No.	Particulars	2005-06	2006-07	2007-08	2008-09	2009-10
1.	**Revenue raised by the State Government**					
•Tax revenue		8,939.28	10,155.80	11,782.80	12,180.70	13,447.85
•Non-tax revenue		1,398.96	1,463.58	1,816.70	2,300.72	3,467.40
Total		**10,338.24**	**11,619.38**	**13,599.50**	**14,481.42**	**16,915.25**
2.	**Receipts from the Government of India**					
•Grants-in-aid		505.29	574.23	1,312.88	1,870.79	3,536.08
3.	**Total revenue receipts of the State Government (1 and 2)**	**10,843.53**	**12,193.61**	**14,912.38**	**16,352.21**	**20,451.33**
4.	**Percentage of 1 to 3**	**95**	**95**	**91**	**89**	**83**

The above table indicates that during the year 2009-10, the revenue raised by the State Government was 83 *per cent* of the total revenue receipts (₹ 20,451.33 crore) against 89 *per cent* in the preceding year. The balance 17 *per cent* of receipts during 2009-10 was from the Government of India.

1.1.2 The following table presents the details of tax revenue raised during the period from 2005-06 to 2009-10:

(₹ in crore)

Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/ decrease (-) in 2009-10 over 2008-09
1.	Taxes on sales, trade, etc.	6,500.56	7,365.79	8,310.49	9,152.09	10,126.01	(+) 10.64
2.	State excise	1,024.80	1,133.19	1,301.25	1,420.91	1,643.56	(+) 15.67
3.	Stamp duty and registration fee	827.65	917.97	1,318.40	788.01	929.97	(+) 18.01
4.	Taxes on vehicles	298.74	362.84	420.20	419.12	462.65	(+) 10.39
5.	Other taxes	287.53	376.01	432.46	400.57	285.66	(-) 28.69
Total		**8,939.28**	**10,155.80**	**11,782.80**	**12,180.70**	**13,447.85**	**(+) 10.40**

The concerned departments reported the following reasons for increase/ decrease in receipts during 2009-10 over those of 2008-09.

Taxes on sales, trade etc.: The increase was stated to be due to increased number of dealers getting registered with the department, increased emphasis on scrutiny of returns, enhancing the rate of tax and increased efforts by the border authority wing.

State excise: The increase was stated to be due to increase in duty on IFL, opening of new L-2 Vends in the un-served areas and proactive measures like introduction of holograms.

Stamp duty and registration fee: The increase was stated to be due to slight increase in sale and purchase of immovable property.

Taxes on vehicles: The increase was stated to be due to higher registration of new vehicles than that of the year 2008-09.

1.1.3 The following table presents the details of non-tax revenue raised during the period 2005-06 to 2009-10.

(₹ in crore)

Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/ decrease (-) in 2009-10 over 2008-09
1.	Forestry & Wildlife	0.14	0.04	0.05	0.08	0.07	(-) 12.5
2.	Interest Receipt	1,254.17	1,284.98	1,634.79	2,101.41	3,236.61	(+) 54.02
3.	Mining Receipt	0.09	0.05	0.06	0.10	0.10	-
4.	Public Works	6.45	9.71	11.95	9.23	14.99	(+) 62.40
5.	Medical & Public Health	13.93	15.18	16.87	18.75	24.65	(+) 31.47
6.	Education, Sports, Art & Culture	11.39	9.27	12.52	22.97	22.26	(-) 3.09
7.	Crop Husbandry	0.42	0.40	0.35	0.40	0.16	(-) 60.00
8.	Animal Husbandry	0.39	0.39	0.47	0.36	0.42	(+) 16.67
9.	Others*	111.98	143.56	139.64	147.42	168.14	(+) 14.06
Total		**1,398.96**	**1,463.58**	**1,816.70**	**2,300.72**	**3,467.40**	**(+) 50.71**

Note: **Others comprise mainly receipts from Dividends & Profits, Public Service Commission, Other Administrative Services, Power and Labour & Employment.*

The reasons for increase/decrease in receipts during 2009-10 over those of 2008-09 as given by the concerned departments are as under:

Interest Receipts: The increase was stated to be due to the excess recovery of interest during 2009-10 and sanctioning of loan to Delhi Jal Board by the Department of Urban Development.

Public Works: The increase was stated to be due to sale of tender documents of street scraping works and the earnest moneys of some contractors were forfeited and transferred to revenue head.

Medical & Public Health: The increase was stated to be due to receipt from Delhi Building & Other Construction Workers Welfare Board, Labour Department and dividend on shares of Government of NCT of Delhi which was deposited under the above receipt head.

Crop Husbandry: The decrease was stated to be due to discontinuation of the activity regarding purchase of various pesticides, fertilisers, seeds etc. for sale to the farmers through Block Development Officers and holding up of lifting of sludge from sewage disposal plant due to shortage of trucks.

Animal Husbandry: The increase was stated to be due to increase in number of meat exporters who came forward to get more meat samples tested.

1.2 Response of the Departments/Government towards Audit

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

The Accountant General (Audit), Delhi, (AG) conducts periodical inspection of the Government departments to test check the transactions and verify the maintenance of the 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 AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the departments and the Government.

Inspection reports issued up to December 2009 disclosed that 6002 paragraphs involving ₹ 3,920.65 crore relating to 341 IRs remained outstanding at the end of 30 June 2010 as mentioned, in the following table, along with the corresponding figures for the preceding two years.

	June 2008	June 2009	June 2010
Number of outstanding IRs	206	289	341
Number of outstanding audit observations	2645	4481	6002
Amount involved (₹ in crore)	1,758.51	3,093.36	3,920.65

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2010 and the amounts involved are mentioned in the following table:

(₹ in crore)

Sl. No.	Names of Departments	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Finance	Taxes/VAT on sales, trade *etc.*	270	5799	3784.52
		Entertainments tax, luxury tax, *etc.*	5	23	1.01
2.	Excise	State excise	5	12	30.44
3.	Transport	Taxes on motor vehicles	20	20	1.34
4.	Stamps and registration	Stamps and registration fees	38	144	13.14
5.	Others		3	4	90.20
Total			**341**	**6002**	**3,920.65**

This large pendency of IRs due to non-receipt of the replies is indicative of the fact that the heads of Offices and heads of Departments had failed to initiate

action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

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

1.2.2 Departmental Audit Committee Meetings

The Government set up audit committees (during various periods) to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2009-10 and the paragraphs settled are mentioned in the following table:

(₹ in crore)

Head of revenue	Number of meetings held	Number of paragraphs settled	Amount
Sales tax	6	317	212.44
State excise	1	5	1.39
Total	**7**	322	**213.83**

The progress of settlement of paragraphs pertaining to Sales Tax and State Excise was negligible as compared to the huge pendency of the IRs and paragraphs, despite holding departmental audit committee meetings.

It is recommended that the Government may fix targets for settlement of paragraphs in each meeting and approve suitable action for failure to achieve the targets.

1.2.3 Non-production of records to Audit for scrutiny

The programme of local audit of Department of Trade & Taxes, Department of State Excise, Entertainment & Luxury Tax, Transport Department, Revenue Department and other receipts' offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit to the department to enable them to keep the relevant records ready for audit scrutiny.

During 2009-10, the tax assessment records relating to three offices involving 1373 cases were not made available to Audit. Of the 1373 cases, 1364 cases related to Department of Trade and Taxes out of which 252 assessment cases pertained to two special circles/wards where assessments of major dealers are dealt with. Year wise break-up of such offices, which did not provide records is given in the following table:

Name of Office	Year in which it was to be audited	Number of assessment cases not audited	Number of cases in which revenue involved could be ascertained
Sub-Registrar IVA	2007-08	2	-
Sub-Registrar IV	2008-09	7	-
Department of Trade & Taxes	2009-10	1364	-

The revenue involved in the above cases could not be ascertained, as the records were not made available to Audit for scrutiny.

1.2.4 Response of the Departments to the draft audit paragraphs

Draft paragraphs proposed for inclusion in the Audit Report are forwarded by the AG to the concerned Departments through demi-official letters. All the Departments are required to furnish their remarks within six weeks of their receipt. The fact of non-receipt of replies from the Government is invariably indicated at the end of each such paragraph included in the Audit Report.

Draft paragraphs clubbed into 18 paragraphs (including one review) proposed for inclusion in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2010 were forwarded to the respective Departments and the Government in June and November 2010. The replies from the Department were received in parts in respect of all the paragraphs, which have been reflected in the report.

1.2.5 Follow up on Audit Reports – summarised position

Once the Reports of the Comptroller and Auditor General of India are placed in the State Legislative Assembly, the various Departments are required to submit action taken notes (ATNs) on all paragraphs contained therein for consideration of the Public Accounts Committee (PAC). Undue delay in submission of ATNs dilutes the accountability of the Executive to the Legislature and is to be viewed seriously. The position of outstanding ATNs on paragraphs and reviews included in the Report relating to revenue receipts of the Comptroller and Auditor General of India, Government of NCT of Delhi as of September 2010 is mentioned in the following table:

Sl. No.	Year of Report ending 31 March	Number of paragraphs and reviews printed in Report	Number of paragraphs for which ATNs were awaited
1.	1995	13	10
2.	1998	10	07
3.	2004	20+3 (Reviews)	3+1 (Review)
4.	2005	26+1 (Review)	1
5.	2006	19+1 (Review)	5+1 (Review)
6.	2009	13+2 (Reviews)	13+2 (Reviews)

Thus, ATNs have been pending for periods up to 16 years. The Government needs to view this seriously and take expeditious action.

1.2.6 Compliance with the earlier Audit Reports

In respect of the paragraphs featured in the Audit Reports 2005-06 to 2008-09, the Department/Government accepted audit observations involving revenue of ₹ 364.67 crore of which only ₹ 65 lakh was recovered till October 2010 as mentioned in the following table:

(₹ in crore)

Year of the Audit Report	Money value of Audit Reports	Money value of accepted cases	Amount recovered
2005-06	177.85	18.44	0.06
2006-07	254.93	209.06	0.27
2007-08	945.52	28.17	0.18
2008-09	1,729.62	109.00	0.14
Total	**3,107.92**	**364.67**	**0.65**

As against accepted money value of ₹ 364.67 crore, only ₹ 65 lakh (0.18 *per cent*) were recovered during the last four years. **Efforts may be made for early recovery of the accepted amount.**

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

In order to analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the action taken on the paragraphs and reviews included in the Audit Reports of the last seven years in respect of Department of Trade & Taxes is evaluated and included in each Audit Report.

The succeeding paragraphs 1.3.1 to 1.3.2.2 discuss the performance of the Department of Trade & Taxes to deal with the cases detected in the course of local audit conducted during the last seven years and also the cases included in the Audit Reports for the years 2003-04 to 2009-10.

1.3.1 Position of Inspection Reports

The summarised position of inspection reports issued during the last *seven* years, paragraphs included in these reports and their status as on 31st March 2010 are tabulated in the following table:

(₹ in crore)

Year	Opening balance			Additions during the year			Clearance during the year			Closing balance during the year		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2003-04	1046	9472	750.88	99	1453	564.88	-	104	188.34	1145	10821	1,127.42
2004-05	1145	10821	1,127.42	93	1436	306.27	668	7468	404.91	570	4789	1,028.78
2005-06	570	4789	1,028.78	81	1377	399.89	227	1916	174.95	424	4250	1,253.72
2006-07	424	4250	1,253.72	64	880	320.51	265	2548	543.25	223	2582	1,030.98
2007-08	223	2582	1,030.98	62	1329	1,077.42	79	1266	349.89	206	2645	1,758.51
2008-09	206	2645	1,758.51	89	2265	1,748.24	6	429	413.39	289	4481	3,093.36
2009-10	289	4481	3,093.36	108	2972	2,900.71	11	301	218.47	386	7152	5,775.60

Audit Committee meetings are arranged between the Departments and this office and these committees settled the old paragraphs at the spot. It is evident from the given table that due to vigorous efforts, against 1145 IRs with 10821 outstanding paragraphs at the end of 2003-04, the number of outstanding IRs declined to 386 with 7152 paragraphs at the end of 2009-10.

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

1.3.2.1 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last five years, those accepted by the Department and the amount recovered are mentioned in the following table:

(₹ in crore)

Year of Report ending 31 March	Number of paragraphs included	Money value of the paragraphs	Money value of accepted paragraphs*	Amount recovered during the year	Cumulative position of recovery of accepted cases
2004	23	410.05	-	12.86	12.86
2005	27	402.36	55.65	0.18	13.04
2006	20	177.85	11.52	0.11	13.15
2007	16	254.93	16.54	0.08	13.23
2008	11	945.52	70.75	0.14	13.37

*Note: *Due to partial acceptance of paragraphs by the departments, the exact number of paragraphs including money value could not be ascertained.*

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

The draft performance reviews conducted by the AG are forwarded to the concerned Departments/Government for their information with a request to furnish their replies. These reviews are also discussed in an exit conference and the Department's/Government's views are included while finalising the reviews for the Audit Reports.

The following reviews on the Department of Trade & Taxes, State Excise, Entertainment & Luxury Tax and Transport Department featured in the last five Audit Reports.

Year of IR	Name of the Review	Number of recommendations	Details of recommendations	Status
2004-05	Performance appraisal of levy of Sales Tax in respect of Inter State Sales	4	(i) A system needs to be devised and linkages established for periodic cross verification of the statutory forms on test basis;	The Department stated that statutory forms could be verified through TINXSYS system and the Empowered Committee Secretariat was considering strengthening the TINXSYS.
			(ii) as it may not be possible to detect each and every case of evasion or false declaration, it is necessary that an	The Department stated that the provisions were already existing in the Act & Rules and circulars were issued from time to time but the department failed to provide

			element of deterrence be introduced by way of strict and rigorous imposition of penalties on persistent defaulters;	the details of defaulters from whom the penalties were imposed for evasion or false declaration.
			(iii) there should be no deviation from the rules and regulations governing inter state sales and assessing authorities should be held accountable for any deviations which may have either resulted in short collection of tax or raised a possibility of such short collection of tax; and	Action taken was not furnished by the Department
			(iv) the internal audit system in the department needs to be urgently strengthened. Given the fact that over 70% of the revenue of Govt. of Delhi is contributed by this department alone, the Directorate of Internal Audit should conduct an internal audit exercise in the sales tax department every year covering a certain number of wards/ circles in a rotational manner.	The Department stated that in addition to internal audit, the VAT Audit, KCS and Special Zone were conducting the audit of the dealers. Special audit was also conducted by the CAs in complicated cases. The Department however, did not furnish the data in support of its claim.
2005-06	Assessment, levy & collection of entertainment, betting & luxury tax	3	(i) There was a need to strengthen the mechanism to monitor adherence to statutory provisions. Maintenance of records and quality of documentation also needed to be improved and internal audit conducted at least on an annual basis; (ii) the Department should institute procedures to cross check at least on a representative test check basis the validity and correctness of the returns submitted by the assesses so as to secure their	The Department accepted the recommendations and stated that it had issued necessary instructions to the branches to

			compliance with statutory provisions; and (iii) action should be ensured to effectively pursue the arrears of tax in accordance with the provisions of the acts. Responsibility should be fixed for any inaction or delay on the part of the departmental officials in effectively pursuing recovery of long pending arrears.	maintain relevant records properly and also instructed the assessing authorities to check the status of returns and tax thoroughly. The Department had also recovered approximately ₹ two crore from some defaulting units.
2006-07	Exemption of tax on account of Export and High Sea Sale	3	(i) Prescribing a system of verification of genuineness of 'H' forms filed along with the assessment records in the DTT with the sales tax offices of issuing states of transactions of ₹ 5 lakh and above to facilitate the assessing authorities to determine the correctness of exemption of tax claimed against form 'H' by the dealers; (ii) taking immediate measures for effective functioning of the internal audit cell; and (iii) fixing of targets and ensuring their achievement by the enforcement branch. Government was also to consider setting up of a mechanism for maintenance of the requisite data in appropriate formats as well as for review and disposal of pending cases detected by the enforcement branch at regular intervals.	The Department stated that in respect of exporters, the local 'H' Forms can be verified through system of the department, whereas, 'H' Forms issued by the other states could be verified through TINXSYS. Before releasing the refund to the exporters complete scrutiny of the documents is also carried out. However, the Department did not furnish the requisite data regarding verification of forms. These recommendations have not been implemented by the Department.

2007-08	Performance appraisal of exemption of Central Sales Tax on account of branch transfer/ consignment sale	4	(i) Creating a database of exemption of tax on account of branch transfer/ consignment sale; (ii) prescribing a periodical return/ statement by the AAs to the superior authorities about the number of 'F' forms required to be cross verified, actual number of forms verified, reasons for shortfall, if any; (iii) evolving a mechanism of periodic review of the stores/ stocks of 'F' forms by the higher authorities to ensure proper utilization of 'F' forms; and (iv) taking immediate measures for effective functioning of the internal audit cell.	The Department stated that most of the returns are online, database is continuously updated. However, no separate database as recommended by audit is being maintained. The Department did not furnish any reply. The Department did not implement these recommendations.
2007-08	Information Technology audit of the Department of Transport	5	(i) Developing of an IT strategy and an IT plan to avoid adhoc implementations; (ii) ensuring implementation of VAHAN covering all categories of vehicle and SARATHI; (iii) strengthening of input controls and validation checks to ensure data completeness and correctness; (iv) complete avoidance of manual interventions; and (v) giving due attention to contract management to avoid undue burden on the citizen and protect the interests of the department apart from monitoring of the activities of the vendors.	The Department accepted the recommendations and stated that NIC has revised the validation checks on the VAHAN and VAHAN 2.0 software as per the requirement of the Department.
2008-09	Assessment, levy and	3	(i) Devising of a system of cross	The Department has accepted the recommendation and

	collection of tax on Works Contract		verification of records to detect the unregistered works contractors and monitoring the results of such an exercise at appropriate levels; (ii) reviewing of working of the collection branch and crediting of payment of tax be allowed only after verification, and (iii) taking of immediate remedial measures for effective functioning of the internal control system including internal audit cell and enforcement branch of the department.	started the efforts for inter-departmental cross verification of database of dealers with the other departments and detection of unregistered dealers. The Department accepted the recommendation. The Department did not implement the recommendation.
2008-09	Transition from Delhi Sales Tax to the Delhi Value Added Tax	4	(i) More emphasis be given to e-governance and training of the staff; (ii) making of a provision in the rules for periodical submission of account of the statutory forms; (iii) bringing maximum number of dealers under regular assessment as scrutiny of the returns did not ensure maximisation of revenue in terms of the dealers and checks exercised; and (iv) fixing of a certain amount to be deposited by the dealer before filing an objection	The Department did not set up a training cell to impart the training to the staff. The dealers are still not submitting the accounts of the statutory forms in time. The Department has not been able to fulfill the scrutiny targets. The Department has not implemented the recommendation.

1.4 Audit planning

The unit offices under various departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter-alia* includes critical issues in Government revenues and tax administration i.e. budget speech, white paper on state finances, reports of the Finance Commission (State and Central), recommendations of the taxation reforms committee; statistical analysis of the revenue earnings during the past 5 years, features of the tax administration, audit coverage and its impact during past 5 years etc.

During the year 2009-10, the audit universe comprised of 107 auditable units, of which 107 units were planned and 105 units were audited during the year 2009-10 which is 98.13 *per cent* of the total auditable units.

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

1.5 Results of audit

1.5.1 Position of local audit conducted during the year

Test check of the records of Department of trade and taxes, state excise, entertainment, transport, registration etc., conducted during the year 2009-10 revealed underassessment/short levy/loss of revenue aggregating ₹ 3,140.37 crore in 2696 cases. During the course of the year, the Departments concerned accepted underassessment and other deficiencies of ₹ 49.95 crore involved in 138 cases which have been pointed out by audit. Of these, the Departments recovered ₹ 0.39 crore in 49 cases during the year 2009-10.

1.5.2 This Report

This report contains 18 paragraphs including one performance review on "Levy and Collection of Stamp Duty and Registration Fee" relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of ₹ 1,764.20 crore of which ₹ 49.36 crore has been accepted by the Government/Departments. These are discussed in succeeding Chapters II to IV.

CHAPTER II
SALES TAX/VALUE ADDED TAX

2.1 Tax administration

Value Added Tax (VAT) is a tax on value addition. It is a multi-point tax, which is levied at every stage of sale. It is collected at the stage of manufacture/resale and contemplates rebating of the tax paid on inputs and purchases, thereby providing revenue to the Government on value addition at every stage.

The receipts from VAT are administered by the Commissioner of Department of Trade and Taxes (DTT) assisted by four Special Commissioners. There are ten zones each headed by the Joint Commissioners/Deputy Commissioners who work under the Additional Commissioners and supervise the work of the Value Added Tax Officers (VATOs) and the Assistant Value Added Tax Officers (AVATOs) and the Inspectors working in the wards under their control. Delhi has been divided into 107 wards headed by the VATOs.

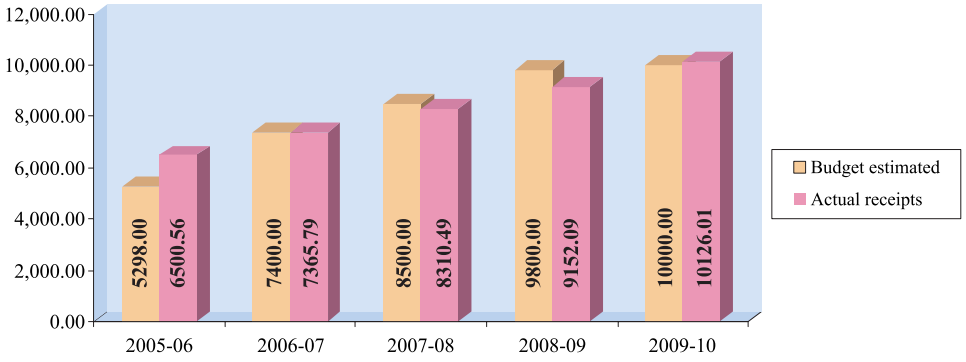
2.2 Trend of receipts

Actual receipts from VAT during the last five years 2005-2006 to 2009-10 along with the total tax receipts during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT receipts vis-a-vis total tax receipts
2005-06	5,298.00	6,500.56	(+) 1,202.56	(+) 22.70	8,939.28	72.72
2006-07	7,400.00	7,365.79	(-) 34.21	(-) 0.46	10,155.80	72.53
2007-08	8,500.00	8,310.49	(-) 189.51	(-) 2.23	11,782.80	70.53
2008-09	9,800.00	9,152.09	(-) 647.91	(-) 6.61	12,180.70	75.14
2009-10	10,000.00	10,126.01	(+) 126.01	(+) 1.26	13,447.86	75.30

TREND OF RECEIPTS



It is seen that the variation between BEs and actual receipts which was as high as 23 *per cent* during 2005-06 came down to one *per cent* during 2009-10.

2.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March, 2010 amounted to ₹ 9944.38 crore of which ₹ 8635.87 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2005-06 to 2009-10:

(₹ in crore)

Year	Opening balance of arrears	Additions during the year	Amount collected during the year	Closing balance of arrears
2005-06	8635.87	1926.36	946.85	9615.38
2006-07	9615.38	23.65	385.59	9253.44
2007-08	9253.44	193.23	982.71	8463.96
2008-09	8463.96	534.79	324.63	8674.12
2009-10	8674.12	2060.95	790.69	9944.38

It is seen from the given table that the arrears of revenue have decreased during the year 2006-07 and 2007-08 but increased during the year 2008-09 and 2009-10. The Department stated that the major part of arrears of ₹ 7784.28 crore related to the DST regime. The fact remains that the cases are pending recovery and should be collected before they become irrecoverable.

2.4 Assessee profile

The total number of dealers registered during 2009-10 was 219902 out of which monthly, quarterly, half yearly and yearly dealers were 12787, 90858, 61209 and 55048 respectively. 1018 dealers were large tax payers based on tax deposited of more than one crore and 93096 dealers were small dealers based on tax deposited of less than one lakh. 221898 dealers were required to file the returns as on 31st March, 2010 out of which 176268 dealers filed their returns.

2.5 Cost of VAT per assessee

The VAT per assessee during the year and the preceding two years is shown below:

(₹ in lakh)

Year	Total number of assessees	Cost of collection	Cost of VAT per assessee
2007-08	186346	4645.00	0.02
2008-09	203358	4761.00	0.02
2009-10	219902	5097.00	0.02

It may be seen from the given table that the cost of VAT per assessee is same during the last three years.

2.6 Arrears in assessment/scrutiny

The number of cases pending assessment/scrutiny at the beginning of the year, becoming due during the year, disposed during the year and pending at the end of the each year during 2007-08 to 2009-10 as furnished by the Department of Trade and Taxes on Sales/VAT etc. are as mentioned below:

Year	Opening balance		Cases which become due for assessment/ scrutiny		Total		Cases disposed during the year		Cases pending at the end of the year	
	DST Regime	DVAT Regime	DST Regime	DVAT Regime	DST Regime	DVAT Regime	DST Regime	DVAT Regime	DST Regime	DVAT Regime
2007-08	7277	134796	2469	23248	9746	158044	3457	40911	6289	117133
2008-09	6289	117133	1325	65576	7614	182709	2055	102650	5559	80059
2009-10	5559	80059	390	105185	5949	185244	1004	94131	4945	91113

2.7 Cost of collection

The gross collection in respect of the value added tax revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2009-10 along with the relevant all India average percentage of expenditure on collection to gross collection for the year 2008-09 are mentioned below:

(₹ in crore)

Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2008-09
Taxes on sales, trade etc.	2007-08	8,310.49	46.45	0.56	0.88
	2008-09	9,152.09	47.61	0.52	
	2009-10	10126.01	50.97	0.50	

From the above table, it is evident that the percentage of expenditure on collection of taxes on sales, trade etc. was less than the all India average percentage for all the years 2007-08 to 2009-10.

2.8 Analysis of collection

The collection of revenue on taxes on sales, trade etc. has increased from ₹ 8310.49 crore during 2007-08 to ₹ 10126.01 crore during the year 2009-10 whereas the percentage of expenditure on collection has decreased from 0.56 *per cent* to 0.50 *per cent* during the same period.

2.9 Revenue impact

During the last five years (including the current year's report), audit through its audit reports had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/ suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 2984.22 crore in 60 paragraphs. Of these, the Department/Government has accepted audit observations involving ₹ 154.32 crore and has since recovered ₹ 36.88 lakh. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraph accepted*	Amount recovered*
	No	Amount	Amount	Amount
2004-05	16	218.42	55.51	0.04
2005-06	11	69.80	11.52	0.11
2006-07	12	59.71	16.54	0.08
2007-08	9	929.83	70.75	0.14
2008-09	12	1706.46	0	0
Total	**60**	**2984.22**	**154.32**	**0.37**

*Note: *A review has been considered as one paragraph. Therefore, only amounts accepted by the Deptt. have been taken into the 'Paragraph accepted' figure.*

2.10 Internal audit

The DTT has an Internal Audit Cell (IAC) under the charge of the Joint Commissioner (Audit). This cell was to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided by the Steering Committee so as to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time. In addition, the Directorate of Audit under the Finance Department is entrusted with the internal audit of all offices/Departments of the Government.

On this being pointed out by Audit, the DTT stated that it had submitted an Action Plan in October 2009 for the IAC for 2009-10 deciding the criteria for selection of the cases.

2.11 Results of audit

We noticed during the test check of the records of 68 units relating to VAT an underassessment of tax and other irregularities involving ₹ 2672.43 crore in 2579 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Irregular claim of exemption/ concessional rate of tax on statutory forms	1029	1268.83
2.	Application of incorrect rate of tax	34	20.20
3.	Excess claim of input tax credit	47	8.41
4.	Non-payment of tax on sale of capital assets	37	4.35
5.	Allowance of credit of payment of tax to the dealers without verifying challans from bank scroll	15	4.47
6.	Short payment of out put tax	11	3.08
7.	Irregular deduction claimed on account of TDS	13	1.30
8.	Irregular claim of refund/reduction of tax through revised return	10	2.31
9.	Incorrect claim of exemption on 'F' forms containing multiple month transactions	10	1.83
10.	Double claim of exemption on F form against same bills of transactions	1	1.07
11.	Irregular claim of exemption of tax on branch transfer/consignment sale to places not mentioned in the R.C.	2	0.29
12.	Others	1370	1356.29
Total		**2579**	**2672.43**

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 49.51 crore in 104 cases which were pointed out in audit during the year 2009-10. An amount of ₹ 8.07 lakh was realised in 18 cases during the year 2009-10.

Few illustrative audit observations involving ₹ 1,296.83 crore are mentioned in the succeeding paragraphs.

2.12 Audit observations

During scrutiny of assessment records of value added tax (VAT), we observed several cases of claim of concession/exemption without production of prescribed statutory forms/or on defective forms, excess claim of deduction, irregular claim of exemption etc. which resulted in short levy of tax as mentioned in the succeeding paragraphs. These cases are illustrative and are based on the cases noticed during the test check carried out by us. We pointed out such omissions on the part of Assessing Authorities (AA) each year; but not only do the irregularities persist but they remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that occurrence of such cases can be avoided, detected and corrected.

2.13 Irregular claim of exemption/concessional rate of tax on statutory forms

Under the provisions of CST Act and Rules, a dealer may claim exemption/concessional rate of tax for the goods under the Inter State Trade:
(a) in respect of any goods on the ground that the movement of goods was occasioned by transfer of such goods by him to any other place of his business or to his branch or to his agent or principal as the case may be;
(b) sale of goods by one registered dealer if the dealer furnishes a declaration in form 'C' covering all the transactions of sales;
(c) where sale of any goods has been effected by a transfer of documents of title to such goods during their movement from one state to another (sale in transit) to the Government or to a registered dealer;

(d) in the case of export sale or sale made to a unit situated in a Special Economic Zone, exemption is admissible subject to the furnishing of 'H' forms or 'I' forms, as the case may be.

For claiming the exemption/concessional rate of tax, the dealer is required to furnish the prescribed statutory forms, like Forms F, C, EI, EII, H & I as prescribed under the CST Acts and Rules.

In case of default in submission of the forms, the transactions needed to be assessed at the rate applicable in the State.

2.13.1 We noticed during the test check of the dealer files of DTT between April 2009 and March 2010 that in 1013 cases, during the assessment years 2006-07 and 2007-08, the dealers claimed exemption/ concessional rate of tax on ₹ 14,574.01 crore on account of branch transfer/ consignment sale, concessional rate of tax of three *per cent*, transit sales, sales to SEZ and export out of India disclosed by them in Form I and in Form DVAT-51. Our scrutiny indicated that the dealers had not submitted the required statutory forms by the dates prescribed by the Department for the said cases. We also noticed that some of the dealers have sought extension for submission of the statutory forms. However, even after expiry of the extended date the dealers failed to

submit the forms. The Department has not taken action to assess these dealers and disallow the exemption sought by them. This had resulted in irregular exemption of tax of ₹ 1019.87 crore. Besides, interest of ₹ 242.39 crore was also leviable for non payment of tax. The details are given in the following table:

(₹ in crore)

Sl. No.	Transaction details	Number of cases	Transaction value	Tax payable	Interest leviable	Total
1.	In 83 wards[1] the dealers did not submit prescribed F forms in support of branch transfer/ consignment sale	334	8702.22	614.08	145.62	759.70
2.	In 97 wards[2] the dealers did not submit prescribed C forms	504	3304.61	202.59	47.65	250.24
3.	In 65 wards[3] the dealers did not submit prescribed EI/EII forms	139	2334.23	194.61	47.11	241.72
4.	In 18 wards[4] the dealers did not submit prescribed H forms	31	219.41	7.71	1.80	9.51
5.	In five wards[5] the dealers did not submit prescribed I forms	05	13.54	0.88	0.21	1.09
	Total	**1013**	**14574.01**	**1019.87**	**242.39**	**1262.26**

After we reported the matter, the Department accepted the audit observations and stated that in 79 cases involving ₹ 47.95 crore demand has been raised and in 14 cases involving ₹ 7.98 lakh recovery has been made. Further, report and reply on the remaining cases has not been received.

We reported the matter to the Government in June, 2010 but have not received any reply (December 2010).

[1] Ward Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, 14, 19, 20, 21, 24, 25, 27, 28, 30, 32, 34, 35, 36, 40, 41, 43, 44, 45, 46, 47, 49, 50, 51, 53, 54, 56, 57, 58, 59, 62, 63, 64, 65, 66, 68, 70, 73, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101,102,103, 106, KCS I, KCS II, KCS III, KCS-IV, KCS-V, KCS-VI and Spl. zone.

[2] Ward 1 to 6, 8, 9, 11, 12, 14 to 21, 23 to 25, 28 to 33, 35, 36, 38 to 41, 43 to 54, 56, 57, 58, 61 to 73, 76 to 97, 99 to 102, 104 to 107,KCS-I to KCS-VI

[3] Ward 2, 4 to 9; 11, 13 to 15; 21, 24 to 28; 30, 35, 38 to 41; 43, 44, 46, 49 to 51; 53 to 56, 58; 61, 62, 64,65,68 to 70; 72, 73, 77, 78,80; 83 to 86, 88,89,90,91, 96,97,99,100,101, 103, 107, KCS I to KCSIII, KCS-V and KCS-VI

[4] Ward Nos. 2, 18, 24, 31, 41, 46, 47, 50, 57, 61, 66, 73, 90, 99, 101, 105, KCS III and KCS-VI

[5] Ward Nos.33, 43, 67, KCS-VI & Spl. Zone

2.13.2 We noticed during the test check of the records of 13 wards[6] of DTT between April 2009 and March 2010 that in 16 cases dealers claimed exemption on branch transfer of ₹ 109.99 crore in the year 2007-08. Such claims were not supported by valid statutory forms or transactions mentioned in the forms relating to the previous year. The assessing authority did not scrutinise the statutory forms submitted by the dealers to ascertain the correctness of claims of exemption on branch transfer made by the dealers in their returns. This resulted in under assessment of tax of ₹ 5.32 crore. Besides, interest of ₹ 1.25 crore was also leviable.

After we reported the matter, the Department accepted the audit observations and stated that in two cases involving ₹ 72.99 lakh demand has been raised. Further, report and reply on the remaining cases has not been received.

We reported the matter to the Government in June 2010 but have not received any reply (December 2010).

2.14 Irregular claim of exemption of tax on branch transfer/ consignment sale to places not mentioned in the registration certificate (RC)

Sub-section (1) of the Section 7 of the CST Act stipulates that every dealer has to declare his places of business in other States at the time of seeking registration. Further, Sub-section(1) of Section 6-A read with Rule 12(5) of the CST (R&T) Rules provides that a declaration in form 'F' has to be submitted by the dealer for transfer of goods to other places of business or to his agent or principal. Otherwise, the transactions are to be treated as interstate sale and taxed accordingly. Interest at prescribed rate is also leviable

We noticed during the test check of records of two wards[7] of DTT between April 2009 and March 2010 that in two cases the dealers claimed exemption on the basis of form 'F' on stock transfer amounting to ₹ 1.88 crore to places other than those specified in the RC during the assessment year 2007-08. As the stock was not transferred to the declared branches, claim of exemption was irregular. The assessing authority did not scrutinise the forms and the RC to verify the correctness of the claim. This resulted in irregular claim of exemption of ₹ 1.88 crore with consequent undercharge of tax of ₹ 23.55 lakh. Besides, interest of ₹ 5.05 lakh was also leviable.

We reported the matter to the Department and to the Government in June, 2010 but have not received any reply (December 2010).

[6] Ward nos 4, 44, 64, 68, 76, 83, 99, 100, 101, 102, 103, KCS-II & KCS-VI
[7] Ward Nos. 84 and 101

2.15 Application of incorrect rate of tax

The DVAT Act specifies tax rates payable by a dealer in respect of the goods or classes of goods mentioned in the various schedules appended to the Act. If any person furnishes incorrect return, the Commissioner may assess or reassess the amount of tax due for a tax period. Short payment of tax attracts penalty at the rate of one *per cent* of tax deficiency per week or ₹ 100 per week for the period of default, whichever is higher and interest at prescribed rates.

We noticed during the test check of the records of 17 wards[8] of the DTT between April 2009 and March 2010 that in 34 cases relating to the year 2007-08, the dealers paid tax on sale valued at ₹ 160.35 crore at lower rates than those prescribed. The assessing authority did not scrutinise the returns of the dealers to ascertain the correctness of rate at which tax was paid. This resulted in short payment of tax of ₹ 7.59 crore. Besides, interest of ₹ 2.82 crore and penalty of ₹ 9.79 crore were also leviable. A few illustrative cases are as given below:

(₹ in lakh)

Sl. No.	Dealer's name & TIN No.	Business	Ward	Rate applicable/applied (%)	Total tax effect	Observation
1	Vardhman Polytex Ltd. 07680103791	yarn excluding wool	56	4 0	414.60	Under DVAT Act, entry nos.05, 84(177) and 84(178) of schedule-III, yarn is liable to tax @ 4% whereas AA did not levy tax on sale of yarn excluding wool.
2	Spentex Industries 07580280580	yarn excluding wool	91	4 0	225.74	Under DVAT Act, entry nos.05, 84(177) and 84(178) of schedule-III, yarn is liable to tax @ 4% whereas AA did not levy tax on sale of yarn excluding wool.
3	Shri Shakti Agencies 07190132045	motor cycle, scooter & parts	79	12.5 0	169.50	Under section4(1)(c) of DVAT Act, motor cycle, scooter parts are taxable @12.5% where AA did not levy tax on sale of motor cycle, scooter & parts.
4	Intercity Traders 07810308535	readymade garments	91	4 0	163.95	Under entry No.57 of schedule-III, readymade garments are liable to tax @ 4% whereas AA did not levy tax on sale of readymade garments
5	Ram Shankar & Co. 07500003592	yarn excluding wool	16	4 0	142.53	Under DVAT Act, entry nos.05, 84(177) and 84(178) of schedule-III, yarn is liable to tax @ 4% whereas AA did not levy tax on sale of yarn excluding wool.

We reported the matter to the Department and to the Government in June, 2010 but have not received any reply (December 2010).

[8] Ward Nos. 11, 15, 16, 40, 44, 49, 50, 56, 64, 67, 68, 79, 83, 84, 88, 91 and KCS-IV

2.16 Excess claim of input tax credit

We noticed during the test check of the records of 27 wards[9] of DTT between April 2009 and March 2010 that in 47 cases the dealers claimed input tax credit of ₹ 39.31 crore in the year 2007-08 on the purchase of tradable goods as against allowable credit of ₹ 35.95 crore. This resulted in excess claim of input tax credit of ₹ 3.36 crore with consequent short payment of tax by the like amount. Besides, interest of ₹ 1.13 crore and penalty of ₹ 3.92 crore were also leviable. A few illustrative cases are as given in the following table :

> Under the DVAT Act, a registered dealer is entitled to a tax credit in respect of the turnover of purchases occurring during the tax period where purchase arises in the course of his activities as a dealer and the goods are to be used by him directly or indirectly for the purpose of making sales which are taxable under the Act or made in the course of interstate trade or export out of the territory of India. Incorrect claim of tax credit attracts penalty at the rate of one *per cent* of tax deficiency per week or ₹ 100 per week for the period of default, whichever is higher and interest at prescribed rates.

(₹ in lakh)

Sl. No.	Dealer's name & TIN No.	Ward No.	Period	ITC admissible	ITC claimed	Excess claim of ITC	Total tax effect
1	Deepanshu Agencies 07120299623	46	2007-08	15.95	44.12	28.17	81.49
2	Navrang Electronics 07850102097	83	2007-08	221.36	279.58	58.22	139.94
3	S.L. Enterprises 00752000843	107	Aug-07	1.83	25.09	23.26	59.81
4	G B Fashion Pvt. Ltd. 07820291991	99	Dec-07	11.42	31.32	19.90	51.16
5	ANV Foods Pvt. Ltd 07970261596	27	2007-08	12.50	32.51	20.01	48.09

We reported the matter to the Department and to the Government in June, 2010 but have not received any reply (December, 2010).

[9] Ward Nos. 3, 7, 11, 15, 27, 33, 38, 46, 47, 49, 54, 61, 68, 69, 70, 77, 79, 83, 84, 97, 99, 102, 103, 105, 106, KCS-IV and Spl. Zone

2.17 Non-payment of tax on sale of capital assets

We noticed during the test check of the records of 18 wards[10] of the DTT between April 2009 and March 2010 that in 37 cases the dealers sold capital assets for ₹ 24.58 crore during the year 2007-08. However, they paid no tax on the above sale. The assessing authority did not scrutinise the returns and annual accounts of the dealers to ascertain the sale of assets and levy tax on it. This resulted in non-payment of tax of ₹ 1.81 crore. Besides, interest of ₹ 56.73 lakh and penalty of ₹ 1.97 crore were also leviable. A few illustrative cases are as given below:

> Under DVAT Act, sale of capital assets is a part of the business of the dealer and, therefore, taxable at the prescribed rate. Non-payment of tax attracts penalty at the rate of one *per cent* of tax deficiency per week or ₹ 100 per week for the period of default, whichever is higher and interest at prescribed rate.

(₹ in lakh)

Sl. No.	Dealer's name & TIN No.	Ward No.	Capital goods	Amount for which capital goods was sold		Total tax effect
				4%	12.50%	
1	Bata India Ltd. 07810055559	KCS-VI	Plant and machinery, furniture and fixtures, vehicles	572.55	116.10	89.94
2	Liberty Shoes Ltd. 07420147681	KCS-VI	Plant and machinery, furniture and fixtures, vehicles	383.69	69.96	57.92
3	KLG Systel Co. 07540148779	44	Computer, Plant and Machinery, Vehicles	160.15	41.34	27.82
4	Humboldt Wedeg I Pvt Ltd. 07700245691	KCS-VI	Furniture and fitting, scrap vehicles	0	46.15	13.87
5	Brindco Sales Ltd. 07050241441	KCS-VI	Vehicles	0	54.34	16.33

We reported the matter to the Department and to the Government in June, 2010 but have not received any reply (December, 2010).

[10] Ward Nos. 2,15,33,41,44,52,54,76,77,87,91,97,98,103,105, KCS-V, KCS-VI and Spl. zone

2.18 Allowance of credit of payment of tax to the dealers without verifying challans from bank scroll

We noticed during the test check of the records of nine wards[11] of DTT between April 2009 and March 2010 that in 15 cases relating to the assessment year 2007-08 Assessing Authority allowed the credit of the amount of payment of tax to the dealers against Part C of the challans and failed to detect that actual payment as per Part B, as recorded in the bank scroll, was less than what was claimed by the dealers. This resulted in excess allowance of credit for payment of tax of ₹ 1.86 crore. Besides, interest of ₹ 75.46 lakh and penalty of ₹ 1.86 crore were also leviable.

Under the provisions of the Act, the dealers are required to deposit the tax and other payments due in form DVAT-20/CST challan in the notified banks. The banks on receipt of the amount issue Parts C and D of the challan to the dealers as proof of payment and forward Parts A and B to the RBI alongwith the bank scroll. The RBI in turn forwards the hard copies of part B to the DTT alongwith the hard copies of the bank scroll. The notified bank branches also forward the soft copy of the bank scroll to the DTT. On receipt of the Part B of the receipted Form DVAT-20/CST challans, the Commissioner shall allow the credit of the amount shown therein, to the dealer against tax, interest or penalty due from him under the Act. Department of Trade & Taxes verifies the soft copy of the data received from the appropriate Government treasury with the Part-B of Form DVAT-20 and CST challan furnished by RBI in case of every individual entry and corrections are made wherever any variations are noticed.

We reported the matter to the Department and to the Government in June, 2010 but have not received any reply (December 2010).

[11] Ward Nos. 16,27,69,70,71,94,98, KCS-II and Spl. Zone

2.19 Irregular deduction claimed on account of TDS

Under the provisions of the DSTWC Act 1999 and the DVAT Act, 2004 and rules made thereunder, any person, not being an individual or Hindu Undivided Family (HUF), who is responsible for making payment to any dealer/contractor for discharge of any liability on account of valuable consideration payable for the transfer of property in goods in pursuance of the works contract for value exceeding rupees twenty thousand, shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by any other mode, whichever is earlier, deduct tax thereon at the rate of two *per cent* and also furnish to the contractor, from whose bills or invoices such deduction is made, a certificate in Form DVAT-43 in original in respect of the amount deducted, the rate at which it has been deducted and the details of deposit into the Government treasury.

We noticed during the test check of records of two wards[12] of DTT between April 2009 and March 2010 that in 13 cases relating to the assessment year 2007-08, the AA failed to detect that the dealers claimed deduction on account of the TDS without furnishing in original the TDS certificates in the form DVAT-43 or by production of photocopies of the same. This resulted in incorrect claim of reduction of tax amounting to ₹ 1.30 crore.

We reported the matter to the Department and to the Government in June, 2010 but have not received any reply (December 2010).

2.20 Irregular claim of refund/reduction of tax through revised return

Section 28 of the DVAT Act, 2004 and Rule 29 thereunder stipulate that, if, within 4 years of the making of an assessment, any person discovers a mistake or error in any of the returns filed by him under this Act and he has as a result of the mistake or error paid more tax than was due under this Act, he may lodge an objection against the assessment in the manner and subject to the conditions stipulated under Section 74 of the Act.

We noticed during the test check of the records of seven wards[13] of DTT between April 2009 and March 2010 for the assessment year 2007-08 that in 10 cases the dealers revised the returns subsequently and increased the refund amount or reduced tax demand without lodging an objection against the assessment in accordance with the section 74 of the Act, which was irregular. The assessing authority did not scrutinise the returns of the dealers to disallow such reductions of tax demand or increased refunds made by the dealers in the

[12] Ward Nos. Spl. zone and KCS-II
[13] Ward Nos. 3, 44, 50, 81, 99, 100 and 103

revised returns. This resulted in incorrect allowance of claims of reduction of tax/refund, amounting to ₹ 98.15 lakh with consequent short payment of tax by the like amount. Besides, interest of ₹ 36.77 lakh and penalty of ₹ 95.96 lakh were also leviable.

We reported the matter to the Department and to the Government in June, 2010 but have not received any reply (December 2010).

2.21 Incorrect claim of exemption on 'F' forms containing multiple month transactions

Under Section 6-A of the CST Act read with Rule 12(5) of the CST (R&T) Rules, dealer may claim exemption of tax by filing a declaration in form 'F' covering transfer of goods effected during a period of one calendar month by a dealer to any other place of his business or to his agent or principal outside the state as the case may be. Otherwise, the transactions are to be treated as inter state sales and taxed accordingly.

We noticed during the test check of the records of five wards[14] of DTT between the period from April 2009 and March 2010 that in 10 cases relating to the assessment year 2007-08, the dealers claimed exemption of tax on account of branch transfer/ consignment sale of ₹ 16.43 crore on the basis of 'F' forms which covered transactions beyond one calendar month which were thus, liable to be treated as inter state sales not supported by valid declarations. These transactions were however passed as branch transfer by the VATO, which resulted in short realisation of tax of ₹ 1.48 crore. Besides, interest of ₹ 35.06 lakh was also leviable.

After we reported the matter, the Department accepted the audit observations and stated that in three cases involving ₹ 34.66 lakh demands had been raised. Further, report and reply on the remaining cases has not been received.

We reported the matter to the Government in June, 2010 but have not received any reply (December, 2010).

[14] Ward Nos. 7, 49, 63, 96 & KCS-II

2.22 Double claim of exemption on 'F' form against same bills of transactions

Under Section 6A of the CST Act, 1956 and Rules made thereunder, the movement of goods from one state to another is exempt from tax if they are transferred on account of branch transfer or consignment sale, duly covered by a declaration in form 'F', filled and signed by the principal officer of the other place of business or his agent or principal as the case may be, containing prescribed particulars alongwith the evidence of despatch of such goods, description of goods, address and registration number of transferor. Production of 'F' forms in respect of branch transfer/consignment sale was made mandatory with effect from May 2002. Otherwise transactions are to be treated as inter state sale and taxed accordingly.

We noticed during the test check of the records of ward KCS-II of DTT between April 2009 and March 2010 that in one case the dealer claimed exemption on branch transfer of ₹ 7.02 crore in the year 2007-08 and furnished the required 'F' form. Bills of transaction of this form actually pertained to another 'F' form, which he had claimed earlier, resulting in double claim of exemption. The assessing authority did not scrutinise the statutory forms submitted by the dealer to ascertain the correctness of claim of exemption on branch transfer made by the dealer. This resulted in under assessment of tax of ₹ 87.80 lakh. Besides, interest of ₹ 19.02 lakh was also leviable.

We reported the matter to the Department and to the Government in June, 2010 but have not received any reply (December 2010).

2.23 Short payment of tax

Under the DVAT Act, a person is entitled to rectify a mistake or error, within 4 years of the making of an assessment, in any return filed by him under the Act by revising the return voluntarily and paying tax, interest and reduced penalty thereon. Otherwise, short payment of tax attracts penalty at the rate of 1 *per cent* of the tax deficiency per week or ₹ 100 per week for the period of default whichever is higher and interest at prescribed rates.

We noticed during the test check of the records of six wards[15] of the DTT between April 2009 and March 2010 that in 11 cases, the dealers incorrectly computed their tax liability aggregating to ₹ 9.65 crore during the year 2007-08 as against correct amount of ₹ 10.73 crore. The Assessing Authority did not scrutinise the returns to ascertain the correctness of the payment of tax.

[15] Ward Nos. 39, 96, 99, 101, KCS- II and KCS-VI

This resulted in short payment of tax of ₹ 1.08 crore. Besides, interest of ₹ 44.76 lakh and penalty of ₹ 1.56 crore were also leviable.

After we reported the matter, the Department accepted the audit observations and stated that in one case involving ₹ 13.77 lakh demand has been raised. Further, report and reply on the remaining cases had not been received.

We reported the matter to the Government in June, 2010 but have not received any reply (December 2010).

2.24 Non-reduction of tax credit in respect of goods transferred on 'F' forms

Under Section 10(3) of the DVAT Act, 2004 the dealer is required to reduce the amount of tax credit originally claimed by the prescribed proportion where-

(a) goods were purchased by a dealer; locally and

(b) the dealer claimed a tax credit in respect of goods, and did not reduce the tax credit by the prescribed percentage; and

(c) the goods were transferred from Delhi, other than by way of a sale, to a branch of the registered dealer or to a consignment agent.

We noticed during the test check of the records of three wards[16] of the DTT for the period from April 2009 to March 2010 that in three cases the dealers claimed exemption on stock transfer of readymade garments, computer hardware and software worth ₹ 2.71 crore during the assessment year 2007-08, which were purchased locally. However input tax credit availed on them was not reversed by the dealer. The Department also did not scrutinise the return and disallow the excess claim made by the dealer. This resulted in excess claim of input tax credit of ₹ 10.86 lakh.

We reported the matter to the Department and to the Government in June, 2010 but have not received any reply (December 2010).

[16] Ward Nos. 43, 50 and 100

2.25 Irregular deduction allowed on account of labour and services

As per Rule 3 of DVAT Rules 2005, in case of turnover arising from the execution of the works contract, the amount representing the taxable turnover shall exclude the charges towards labour and services subject to the dealer maintaining proper records evidencing payment of these charges to the satisfaction of the Commissioner. If the amount of charges towards labour and services is not ascertainable from the accounts of the dealer, the same shall be deducted at the percentage prescribed.

We noticed during the test check of the records of two wards[17] of DTT for the period from April 2009 and March 2010 that in two cases relating to the assessment year 2007-08, the dealers claimed the deduction at higher than the prescribed percentage of rate from their Gross Turn Over (GTO) on account of labour and services charges without furnishing separate account which is mandatory for such deduction. The Department also did not scrutinise the return and disallow the deduction made by the dealer. Thus, claim of excess deduction of ₹ 2.70 crore resulted in short payment of tax of ₹ 33.80 lakh as detailed in the following table :

Sl. No.	Ward No.	Type of contract/ work	Rate(%) applicable/ applied	Total tax effect	Observation
1	Spl. Zone	Civil work	25 30	17.89 lakh	Under Rule 3 of DVAT Rules 2005, deduction of labour and service charges in civil work is allowed @ 25% of the works contract. Whereas, the deduction worked out was upto 30% of the works contract.
2	KCS-IV	Light motor vehicles, parts/ accessories of motor vehicles	20 53	15.91 lakh	Under Rule 3 of DVAT Rules 2005, deduction of labour and service charges in motor vehicles is allowed @ 25% of the works contract. Whereas, the deduction worked out was upto 53% of the works contract.

We reported the matter to the Department and to the Government in June, 2010 but have not received any reply (December, 2010).

[17] Wards KCS-IV and Spl. Zone.

2.26 Irregular adjustment to tax credit on account of purchase of second hand goods

As per Rule 9 of DVAT Rules 2005, no input tax credit shall be claimed on second hand goods purchased by a registered dealer from a resident seller who is not registered under the Act, unless the registered dealer has in his possession adequate proof of the amount paid for such goods in the form of an invoice or receipt signed by such resident seller.

As per Section 15 (3) of DVAT Act 2004, where the amount paid by the registered dealer for the goods exceeds two thousand rupees, the tax credit shall be allowed in the tax period when the goods are sold by the registered dealer or the goods into which they have been incorporated are sold by the registered dealer. Incorrect claim of tax credit attracts penalty equal to tax credit so claimed or ₹ 10,000 whichever is greater. The dealer shall also be liable to pay simple interest at the rate of 15 *per cent* per annum computed on a daily basis.

We noticed during the test check of the records of KCS-IV ward of DTT for the period from April 2009 to March 2010 that in one case the dealer adjusted input tax credit amounting to ₹ 23.84 lakh on account of purchase of second hand goods during the year 2007-08 without furnishing an invoice or receipt signed by such resident seller. This resulted in excess claim of input tax credit of ₹ 23.84 lakh with consequent short payment of tax by the like amount. Besides, interest and penalty were also leviable.

We reported the matter to the Department and to the Government in June, 2010 but have not received any reply (December 2010).

2.27 Incorrect claim of input tax credit on purchase of capital goods

Under Section 2(i)(f) of DVAT Act, 2004 'capital goods' mean plant, machinery and equipment used, directly or indirectly in the process of trade or manufacturing or for execution of works contract. The Act also provides that a dealer can claim ITC during the first year only up to the extent of 1/3rd against the purchase of capital goods and rest of it during the subsequent two years. Incorrect claim of tax credit attracts penalty equal to tax credit so claimed or ₹ 10,000 whichever is greater. The dealer shall also be liable to pay simple interest at the rate of 15 *per cent* per annum computed on a daily basis.

We noticed during the test check of the records of ward No. 99 of the DTT for the period from April 2009 to March 2010 that in two cases the dealers had claimed excess input tax credit of ₹ 7.78 lakh on purchase of capital goods amounting to ₹ 124.29 lakh which was not admissible. This resulted in incorrect claim of input tax credit of ₹ 7.78 lakh. Besides, interest and penalty were also leviable as detailed in the following table:

(₹ in lakh)

Sl. No.	Ward No.	Assessment year	Purchase value	Tax effect	Observation
1.	99	2007-08	48.92	5.77	The dealer had installed an air conditioner and an electric fitting amounting to ₹ 48.92 lakh in his shop and claimed ITC to the tune of ₹ 5.77 lakh during the year 2007-08 which was not admissible on the capital goods purchased. This resulted in incorrect claim of input tax credit of ₹ 5.77 lakh.
2.	99	2007-08	75.37	2.01	The dealer had purchased capital goods amounting to ₹ 75.37 lakh and claimed full input tax credit to the tune of ₹ 3.01 lakh during the year 2007-08 as against admissible amount of ₹ 1 lakh being 1/3rd of the ITC. This resulted in incorrect claim of input tax credit of ₹ 2.01 lakh
Total			**124.29**	**7.78**	

We reported the matter to the Department and to the Government in June, 2010 but have not received any reply (December 2010).

CHAPTER III
STAMP DUTY AND REGISTRATION FEE

3.1 Tax administration

The Secretary (Revenue) is responsible for administration of the Indian Stamp Act and Indian Registration Act and rules framed there under. He is also the District Magistrate of Delhi and Inspector General of Registration. One Deputy Commissioner and one Additional District Magistrate assist him. There are nine zones each headed by a Deputy Commissioner. Each zone is further sub-divided into three sub-zones each headed by a Sub-Divisional Magistrate who also enjoys the power of Collector of Stamps. Each of the zones has an office of the Sub-Registrar who functions under the direct control of the Deputy Commissioner of the respective zone. There is one treasury for the National Capital Territory of Delhi, which is responsible for procurement and issue of both judicial as well as non-judicial stamps/stamp papers. The procurement is made from Indian Security Press, Nashik, by submitting indents through the Divisional Commissioner. The Government of NCT has introduced e-stamping with effect from 1 April 2008. The work has been awarded to M/s. Stock Holding Corporation of India Limited, a public sector undertaking on commission basis.

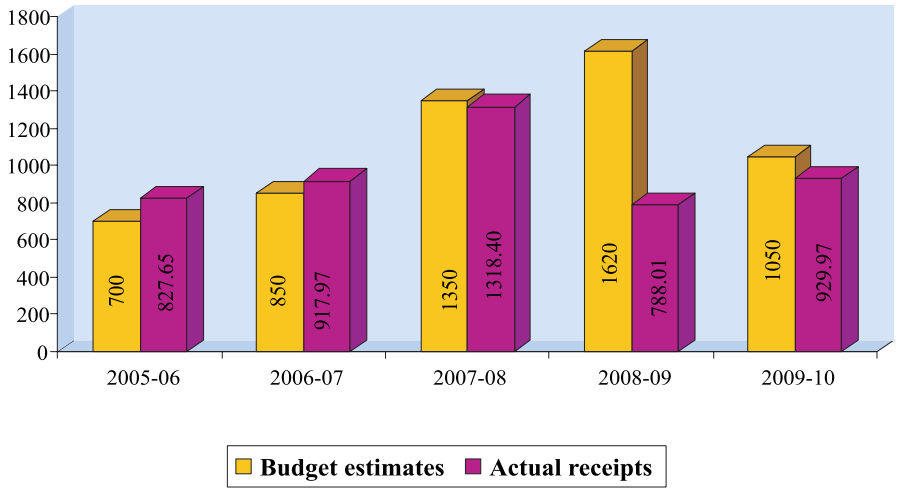
3.2 Trend of receipts

Actual receipts from stamp duty and registration fee during the years 2005-06 to 2009-10 along with the total tax receipts of the State during the same period are exhibited in the following table and graph:

(₹ in crore)

Head of the revenue	Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax/receipts
Stamp duty and registration fee	2005-06	700.00	827.65	(+) 127.65	(+) 18.24	8939.28	9.26
	2006-07	850.00	917.97	(+) 67.97	(+) 8.00	10155.80	9.04
	2007-08	1350.00	1318.40	(-) 31.60	(-) 2.34	11782.80	11.19
	2008-09	1620.00	788.01	(-) 831.99	(-) 51.36	12180.70	6.47
	2009-10	1050.00	929.97	(-) 120.03	(-) 11.43	13447.86	6.92

TREND OF RECEIPTS



It is seen that the variation between BEs and actual receipts which was as high as 18 *per cent* during 2005-06 came down to two *per cent* during 2009-10.

3.3 Cost of collection

The gross collection in respect of the Stamp duty and Registration fee receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2009-10 along with the relevant all India average percentage of expenditure on collection to gross collection for the year 2008-09 are mentioned in the following table:

(₹ in crore)

Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2008-09
Stamp duty and registration fee	2007-08	1318.39	44.05	3.34	2.77
	2008-09	788.01	26.62	3.38	
	2009-10	929.97	19.52	2.09	

From the given table, it was evident that the percentage of expenditure on collection of stamp duty and registration fee was more than the All India average percentage during the year 2007-08 and 2008-09 and less during the year 2009-10.

3.4 Revenue impact

During the last five years (including the current year's report), Audit through its audit reports has pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 5.38 crore

in 3 paragraphs. Of these, the Department/Government has not accepted the audit observations. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered
	No.	Amount	No.	Amount	Amount
2004-05	1	3.24	0	0	0
2005-06	-	-	0	0	0
2006-07	1	0.07	0	0	0
2007-08	-	-	0	0	0
2008-09	1	2.07	0	0	0
Total	**3**	**5.38**	0	0	0

3.5 Internal audit

The internal audit wing of the Finance Department of Government of National Capital Territory of Delhi conducts the internal audit of the Revenue Department. The internal audit wing is required to conduct audit of the office of Inspector General of Registration, Treasury and 13 Sub-Registrar offices.

3.6 Results of audit

Test check of records relating to stamp duty and registration fee conducted during the year 2009-10 revealed short/non-levy of duty and other irregularities involving ₹ 467.76 crore in 107 cases which broadly fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	**Levy and collection of stamp duty and registration fee (A review)**	1	467.22
2.	Others	106	0.54
Total		**107**	**467.76**

A Review on **"Levy and collection of stamp duty and registration fee"** involving ₹ 467.22 crore is discussed in the succeeding paragraphs.

3.7 Levy and collection of Stamp Duty and Registration Fee

Highlights

There is no mechanism to ensure that stamp duty and registration fee had been levied on all the instruments due for registration as per provisions of the Acts. The non-levy of stamp duty and registration fee on documents such as debentures, shares allotted, lease deeds, etc. due for registration under the Acts but not presented for registration had deprived the Government of revenue of ₹ 464.38 crore.

(Paragraph 3.7.6)

Remission of fee on any instrument executed in respect of (a) a foreign or Commonwealth Diplomatic Mission in India, (b) any registered society, and (c) mortgage executed by a Government officer for securing advance for purchasing or constructing his own house; without an enabling provision as amendment to the Indian Registration Act was not legal and thus invalid.

(Paragraph 3.7.7)

The 'Catalogue of permanent records', 'stock register of receipt book' and 'movement register' were not being maintained in all the 13 Sub-Registrar Offices audited.

(Paragraph 3.7.9)

Non-reckoning of minimum circle rates for valuation of properties, introduced by the Government, resulted in short payment of stamp duty of ₹ 2.34 crore.

(Paragraph 3.7.10)

Failure to include interest and capitalisation and other costs in the consideration resulted in short payment of stamp duty of ₹ 41.41 lakh.

(Paragraph 3.7.11)

Misclassification of instruments and non-registration of Sale Deeds relating to agreement to sell resulted in non-realisation of stamp duty of ₹ 8.27 lakh.

(Paragraphs 3.7.12 and 3.7.13)

Stamp papers worth ₹ 1243.09 crore, not in use, were lying unsold in Delhi Treasury for more than 12 years. Non judicial Stamp papers of ₹ 22.71 crore as per records of Delhi Treasury were lying in stock with the State Bank of India, out of stamp papers worth ₹ 140.80 crore delivered to them after introduction of e-stamping.

(Paragraphs 3.7.14.1 and 3.7.14.2)

3.7.1 Introduction

The Indian Stamp Act, 1899, read with the Delhi Province Stamp Rules, 1934, and the Delhi Stamp (Prevention of undervaluation of instruments) Rules 2007 along with the notifications issued from time to time provide for levy of stamp duty on various instruments specified in the Schedule of the Act at specified rates in the National Capital Territory of Delhi. Such duties are paid by the executors of instruments either by using impressed stamp or by affixing

stamps of proper denomination on the instruments or through e-stamping with effect from 1st April 2008. Stamp duty on lease deeds being executed by Delhi Development Authority with the allottees are, however, deposited by way of cash/bank draft through challans into Government account. The State Government is empowered under the Act to reduce or remit prospectively or retrospectively, the levy of stamp duty.

The levy of registration fee on the instruments presented for registration is regulated by the Indian Registration Act, 1908, and rules framed there under. Undervaluation of properties, non-presentation of documents in the offices of the registering authority and non/short payment of stamp duty by the executants on the documents submitted before the registering authorities results in evasion of stamp duty and registration fee.

We reviewed the system of "Levy and collection of stamp duty and registration fee" for the period 2005-06 to 2009-10. The review revealed a number of system and compliance deficiencies, which are discussed in the succeeding paragraphs.

3.7.2 Audit objectives

The primary objectives of the review were to ascertain whether:

- stamp duty and registration fee due was correctly levied and collected in accordance with the provisions of the applicable Acts and Rules;
- exemptions of stamp duty/registration fee claimed by the executors and allowed by the Sub-Registrars had been correctly allowed; and
- effective internal controls existed in the Department to ensure proper levy and collection of stamp duty and registration fee while registering various instruments so as to prevent leakage of revenue.

3.7.3 Scope and methodology of audit

The appraisal was conducted in the office of the Inspector General, 13 Sub-Registrars and one Treasury for the period 2005-06 to 2009-10 during July 2010 to October 2010. We also collected information from various Departments of the Government and scrutinised annual reports of 26 Public Sector Companies of State as well as Central Government registered in Delhi and compared that with data available with the Revenue Department to ascertain whether stamp duty payable on share capital, bonds, debentures, lease deeds, purchase of immovable properties etc had actually been collected and remitted into the Government account.

We also scrutinised Instruments of Sale deeds, conveyance deeds, agreements to sell, gift deeds, mortgage deeds, partition and release deeds registered by Sub-Registrars in five months (one month in each year) selected on the basis of low, medium and high stamp duty. We pursued paras detected during the course of audit for the year 2008-09 and included them suitably in the performance appraisal.

3.7.4 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Revenue Department in providing necessary information and records for the audit. The entry conference was held with the Department in July 2010 wherein the Department was appraised about the scope of audit and methodology. The draft review was forwarded to the Government and the Department in November 2010. The exit conference was held on 18 February 2011 in which results of audit and recommendations were discussed with the Special Inspector General (Registration). The replies of the Department during the exit conference and at other points of time have been appropriately incorporated in the respective paragraphs.

3.7.5 Trend of receipts

The budget estimates and actual receipts from stamp duty and registration fee from 2005-06 to 2009-10 were as given in the following table:

(₹ in crore)

Year	Budget estimate	Actual realisation	(-) Shortfall (+) excess	Percentage of variation
2005-06	700	827.65	(+) 127.65	(+) 18.24
2006-07	850	917.97	(+) 67.97	(+) 8.00
2007-08	1350	1318.40	(-) 31.60	(-) 2.34
2008-09	1620	788.01	(-) 831.99	(-) 51.36
2009-10	1050	929.97	(-) 120.03	(-) 11.43

As can be seen from the given table, the actual revenue realised was less than the estimates since 2007-08 onwards, with maximum variation during the year 2008-09. The Revenue Department stated (July 2010) that the main reasons for non-achievement of revenue collection as per targets were recession, high rate of interest on home loans and reduction in the rate of stamp duty from 8 *per cent* to 6 *per cent* in case of men and from 6 *per cent* to 4 *per cent* in case of women.

We recommend that the Department may fix realistic and achievable targets.

Audit findings

System deficiencies

3.7.6 Absence of a system of monitoring to ensure realisation of proper duty

As per proviso (3) to Section 33 (2) of the Indian Stamp Act, the State may determine what offices shall be deemed to be public offices and who shall be deemed to be persons in charge of public offices. Further, Section 73 also provides that every public officer having in his custody any records, documents and proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorised in writing by the Collector to inspect for such purpose the records, documents and proceedings etc. All Government offices and Government undertakings are generally public offices but the Revenue Department had not inspected any office so far.

We observed that the Revenue Department had not determined and declared as to which office shall be deemed to be public office and who shall be deemed to be persons in charge of public offices. Thus the Department does not have a system to collect information from various Departments/ public offices to ensure that the documents such as agreements, contracts, leases, conveyance deeds etc. are properly registered and stamp duty and registration fee is realised according to the law. Some of the State Governments e.g. Rajasthan have declared some offices as public offices and persons deemed to be incharge of public offices for the purpose of ensuring correct collection of stamp duty and registration fee.

After we reported the matter, the Department stated (January 2011) that existing provision of Indian Stamp Act, 1899 and the Indian Registration Act, 1908 do not permit such inspection. The Department informed (February 2011) during the exit conference that the Central Government through a Sub-Committee was in the process of amending the Indian Stamp Act wherein the declaring of public offices is under active consideration. This would ensure sharing of the information by these offices with the Revenue Department through periodical returns. As of now the Department is totally dependent on the Registrar of Companies for information as discussed in paragraphs 3.7.6.1 & 3.7.6.2.

3.7.6.1 Non-levy of stamp duty on debentures

Article 27 of Indian Stamp Act prescribes levy of stamp duty on debentures being a marketable security. The rate of stamp duty for debenture was ₹ 1.85 for every rupees 500 or part thereof in excess of rupees 1000 up to 11 September 2008 and thereafter at the rate of 0.25 *per cent* or rupees twenty five lakh whichever is lower. Further, under Section 128 and 129 of the Companies Act, 1956, every company is required to file a return in Form 10 in the office of Registrar of Company Affairs (ROC) and furnish details of debentures allotted. Thereafter the Company pays stamp duty in the Department of Revenue and issues the debentures to the subscribers.

We observed that no system has been evolved by the Department of Revenue to ensure that the companies, which issued the debentures, have paid the stamp duty. We also observed that Registrar of Company Affairs (ROC) has no information about the payment of stamp duty on such debentures.

We obtained information from the office of Registrar of Company Affairs (ROC) during July 2010 to October 2010 and noticed that 67 companies had filed returns with ROC and allotted debentures of ₹ 88809.71 crore during the period 2005-06 to 2009-10. The ROC has no information whether these debentures have been issued to the subscribers and stamp duty was paid. We also collected data of Companies, which had paid consolidated stamp duty during 2005-06 to 2009-10 from the Revenue Department. On comparison of the above data, we found that 66 Companies which had allotted debentures of ₹ 88808.21 crore, did not figure in the list of companies which had paid stamp duty to the Department of Revenue. The consolidated stamp duty of ₹ 257.74 crore was payable on such debentures if these have been issued to the subscribers. As the information was neither available with the ROC nor with the Department of Revenue, we could not verify the payment of consolidated stamp duty of ₹ 257.74 crore.

Non-evolving of system to ensure payment of stamp duty by the Revenue Department with the ROC had left wide scope for evasion of stamp duty and Department of Revenue was not in position to verify the correctness of stamp duty paid.

3.7.6.2 Non-levy of stamp duty on allotment of shares

Under Article 19 of the schedule to the Indian Stamp Act, 1899, stamp duty on allotment of shares is chargeable at one rupee for every one thousand, or a part thereof, of the value of the shares, scrip or stock. Further, under Section 75(1) (a) of the Companies Act, 1956, every company is required to file a return in Form 2 in the office of Registrar of Company Affairs (ROC) and furnish the details of allotment of shares. Thereafter the Company pays stamp duty in the Department of Revenue and issues the shares to the subscribers.

3.7.6.2.1 We observed that no system has been evolved by the Department of Revenue to ensure that the companies that issued shares have paid stamp duty. We also observed that Registrar of Company Affairs (ROC) has no information about the payment of stamp duty on shares issued.

We collected information from the office of Registrar of Company Affairs during July 2010 to October 2010 and noticed that 32958 companies have filed returns with the ROC on allotment of shares of ₹ 212500.49 crore during the period from 2005-06 to 2009-10. The ROC has no information whether the shares have been issued and stamp duty had been paid on them. We also collected data of companies, which have paid consolidated stamp duty during 2005-06 to 2009-10 from the Department of Registration. On comparing the above information we found 32848 Companies which have allotted shares of ₹ 205417.48 crore, did not figure in the list of companies who have paid the stamp duty. The consolidated stamp duty of ₹ 205.42 crore was payable on such shares if these have been issued to the subscribers. As the information was neither available with the ROC nor with the Department of Revenue, we could not verify payment of consolidated stamp duty of ₹ 205.42 crore. Non evolving of system to ensure payment of stamp duty by the Department of Revenue with the ROC have left wide scope for evasion of stamp duty and the Department of Revenue was not in a position to verify the correctness of stamp duty paid.

After we reported the matter, the Department stated (January 2011) that Registrar of the Company Affairs has been requested to furnish further information on the defaulting companies. The reply is not acceptable as the ROC is not required to ensure levy of stamp duty and the Revenue Department needs to take action against the defaulting companies after obtaining the information from the ROC on the companies who issued the debentures/shares. We reported the matter to the Government in (November 2010) but have not received any reply (December 2010).

Had the Government declared ROC as Public Office they would be accountable for furnishing the information to the Revenue Department regarding collection of stamp duty and the Department would have also become duty bound to inspect records of the ROC or obtain information from them and verify the payment of stamp duty mentioned in the above paragraphs.

We recommend that in the interest of revenue, the Government may consider declaring ROC and other offices as Public Offices, and till such

time issue notices to the companies who have not paid stamp duty on issue of shares/debentures.

3.7.6.2.2 During test check of records of the office of Inspector General of Registration during July 2010 to October 2010, we noticed that M/s AIPL Ambuja Housing & Urban Infrastructure Limited applied to the Collector of Stamps, Kalkaji, in December 2007 for payment of consolidated stamp duty on equity and preference shares numbering 41250000. The total value of the shares including face value and premium came to ₹ 71.25 crore. The Department intimated to the company in January 2008 to pay consolidated stamp duty of ₹ 7.12 lakh. The company had, however, not paid the consolidated stamp duty, so far. The Department has also not taken any action against the company. This resulted in non-payment of consolidated stamp duty of ₹ 7.12 lakh.

After we reported the matter, the Department stated (January 2011) that the concerned Collector of Stamps has been requested to take necessary action to recover the deficient stamp duty, if any. We reported the matter to the Government in (November 2010) but have not received any reply (December 2010).

3.7.6.3 Non-levy of stamp duty and registration fee due to non-registration of lease deeds by State Government Corporations/PSUs

Under the Registration Act, 1908, lease of immovable property for any term exceeding one year is compulsorily registrable. Where the lease deed purports to be for a term of not more than five years, stamp duty is leviable @ 2 *per cent* of the amount of the average annual rent received. In case the lease period exceeds five years or more or is in perpetuity then it is chargeable at the rate applicable as for conveyance.

3.7.6.3.1 We obtained information from Delhi Transport Corporation during July 2010 to October 2010 about its various properties and observed that the Corporation has acquired 11 bus depots/ terminals between 2005 to 2010 on perpetual lease from Delhi Development Authority, Gram Sabhas and Delhi Metro Railway Corporation. However, the Delhi Transport Corporation has not executed perpetual lease deeds in respect of these properties. Had these properties been registered the Government would have earned stamp duty of ₹ 82.87 lakh and registration fee of ₹ 1100.

3.7.6.3.2 We scrutinised annual report of India Trade Promotion Organisation for the year 2007-08 and observed that perpetual lease of four flats at Asian village and 1.5 acres of land for staff quarters at Ghazipur allotted by DDA and 123.51 acres of land at Pragati Maidan Complex given by the Ministry of Urban Development, Government of India to the Organisation for the consideration of ₹ 984.63 lakh had not been registered with the concerned Sub-Registrar. Non-registration of lease deed had resulted in non-payment of stamp duty of ₹ 29.54 lakh and registration fee of ₹ 600.

3.7.6.3.3 We collected information from the Delhi Tourism and Transportation Development Corporation in June 2010 and noticed that the Corporation had invited tenders to operate Coffee Home at Connaught Place, New Delhi on license fee basis. After evaluating technical and financial bids, the license was awarded to four different private parties to operate two 'coffee homes' for a period of five years and another two 'coffee homes' for a period of ten years between November 2004 and November 2009. The licensees paid monthly rent for grant of licenses and had also furnished security. The Corporation accepted the instruments as agreements on non-judicial stamp paper of the denomination of ₹ 100 each and did not insist upon the licensees to get these instruments registered as lease deeds with the concerned registering authorities. Non-registration of lease deeds by the licensees deprived the Government of stamp duty of ₹ 2.90 lakh and registration fee of ₹ 400.

3.7.6.3.4 We also scrutinised annual reports of two Public Sector Corporations and observed that lease deeds of land, buildings and other assets acquired in the National Capital Territory of Delhi by them over the years have not been executed as detailed in the following table:

Sl. No.	Name of the Company	Property of which lease deed has not been executed
1	India Tourism Development Corporation Ltd.	Hotel Samrat and office premises in scope building, Ashok Institute of Hospitality and Travel Management, and Tennis Court at New Delhi.
2	Central Warehousing Corporation	Freehold land, warehouse godowns and container yards at four sites

We could not, however, estimate the quantum of non-payment of stamp duty, as the above Corporations did not furnish the required details called for in September 2010.

After we reported the matter, the Department stated (January 2011) that the concerned Collector of Stamps has been requested to take necessary action to recover the deficient stamp duty from the defaulter companies. We reported the matter to the Government (November 2010) but have not received any reply (December 2010).

To prevent evasion of stamp duty and registration fee, the Government may consider declaring these offices as public offices and lay down norms/targets for the inspection of such offices by the Registrars/Sub-Registrars of the concerned districts/zones to ensure that compulsorily registrable documents are registered with the concerned registering authorities and correct stamp duty and registration fee paid on them. The Government may also, in the interest of revenue, consider prescribing a suitable periodical return to be furnished by these offices to the Revenue Department on the number and nature of documents presented and deficient stamp duty/registration fee.

3.7.7 Irregular grant of exemption of registration fee

Section 78 of the Indian Registration Act empowers the State Government to fix the fee for the registration of various documents and other instruments enumerated in clauses (a) to (i). However, there is no enabling provision in the Indian Registration Act similar to Section 9 of the Indian Stamp Act, empowering the State Government to remit fees payable in respect of any matter enumerated in clauses (a) to (i) of Section 78 of the Act. Seven States/Union Territories have amended the Indian Registration Act by inserting a provision under Section 78-A, which empowers the Government to remit the fee payable in respect of any matter enumerated in clause (a) to (i) under Section 78 either generally or for any particular class or person.

The Government of National Capital Territory of Delhi issued a notification on 1st July 2010 remitting registration fee on any instrument executed for or on behalf of (i) a foreign or Commonwealth Diplomatic Mission in India specified in this behalf by the Administrator of National Capital Territory of Delhi, (ii) any society for the time being registered or deemed to be registered under any law relating to Co-operative Societies for the time being in force or instruments executed by any officer or member of any such Society and relating to business of the Society and (iii) mortgage executed by an officer of Government in civil or military employment for securing the repayment of an advance received by the mortgager from the Government for the purpose of constructing or purchasing a dwelling house for his own use.

We observed that such a remission of fee without an enabling provision amendment to the Indian Registration Act was not legal and thus invalid.

After we reported the matter, the Department stated (January 2011) that vide notification dated 1st July 2010 the Government of NCT of Delhi has only revised the registration fee table and the chapter of exemptions had not been touched in any manner and it remains same as was notified on 27 June 1964.

The reply of the Department is not acceptable, as enabling provision for granting exemptions does not exist in The Indian Registration Act, 1908. We reported the matter to the Government in (November 2010) but have not received any reply (December 2010).

The Government of National Capital Territory of Delhi may take steps for inserting an explicit provision under the Indian Registration Act, to specify the power to remit the registration fee on lines of similar amendment done by seven other States.

3.7.8 Delay in revision of circle rates

In July 2007, the Government of National Capital Territory of Delhi prescribed the circle rates for valuation of immovable properties for the purpose of assessing stamp duty. While introducing the circle rates, Government also decided that the Deputy Commissioner of each District will undertake the exercise of valuation of immovable properties including flats and buildings once in two years in the month of April.

We observed that as per decision of the Government of National Capital Territory of Delhi circle rates were due for revision in April 2009. However, these were revised after a delay of more than one and a half year in February 2011. The delay in carrying out revision of circle rates has deprived the State Government of legitimate revenue, which cannot be quantified for want of specific details.

3.7.9 Poor maintenance of records

3.7.9.1 The office of Sub-Registrar is required to maintain the following records:

(i) as per Rule 8 of the Delhi Registration Rules, 1976 a year-wise catalogue of permanent record is to be maintained in every Registration Office;

(ii) Under Rule 190 (2) (ii) of the General Financial Rules 2005, Stock Register of the manual receipt-books (Receipt-b) detailing the procurement and issuances of the various receipts books is required to be maintained in the Sub-Registrar offices. Also, in accordance with Rule 192(2) of General Financial Rules 2005, a physical verification of all the receipts books should be undertaken at least once in a year and discrepancies, if any, should be recorded in the stock register for appropriate action of the competent authority; and

(iii) as per Rule 11 of the Delhi Registration Rules, 1976 if the production of a register, book or any document in the custody of Registration Officer is required by any court, it should first be entered in 'Movement Register' which shall be maintained in the prescribed form by each Registering Officer and then the same be forwarded to the court under the charge of responsible official of the Registration Office.

3.7.9.1 During test check of records of the 13 registering authorities, during July 2010 to October 2010, we noticed that they are not maintaining some important records. We also observed irregularities in maintenance of records which are as follows:

During test check of records, we observed that 'catalogue of permanent record', 'stock register of receipt book' and 'movement register' were not being maintained in all the

13 Sub-Registrar offices[1]. In the absence of the catalogue, there was no book wise and year wise, list of volumes containing details of their commencement, completion and dispatch to the Central Record Room, maintained in the registering offices. As these volumes contain instruments that have immense legal value, maintenance of 'catalogue' was essential to locate instruments. Further, as stock register of receipt books was not maintained, there was no guarantee of the authenticity of receipt book in use. As movement registers were not maintained, there was a risk that instruments are taken out of the Sub-Registrar's Office without noting down their details and proper authorisation.

3.7.9.2 (**i**) Under sub clause 2 of Rule 3 of the Delhi Document writers Licensing Rules, 1966, no Registering officer shall accept any document for registration which is not written by a Licensed Document writer or the executants themselves.

3.7.9.2 (i) During test check of the records, we noticed that name and registration number of deed writers were not being mentioned on the body of the instruments registered. Therefore, we could not ascertain in audit whether a licensed deed writer wrote the instrument or executants themselves had written it as required in the rules. In the absence of the above details no action can be taken against the deed writer if he has violated any conditions of license.

(**ii**) As per Rule 12 of the Delhi Registration Rules, 1976 and instructions No. 7 issued by the Inspector General of Registration vide order No. F.1(13)/Regn./75-76 dated 13.08.76, the Registering officer is required to certify after the last copy of each volume (a) the number of documents pasted in that volume and the number of pages on which they are written, (b) to certify any errors or defects that he may discover; and (c) certify the consecutive number of copies of documents in each book.

(ii) During test check of the volumes of registered documents we noticed that no such certificate was being recorded. In the absence of such certificate the completeness of the volumes could not be ascertained.

[1] SR-I: Kashmere Gate, SR-II: Janakpuri, SR-II-A: Nangloi, SR-III: Asaf Ali Road, SR-IV: Seelampur, SR-IV-A: Seemapuri, SR-V: Mehrauli, SR-VI-A: Pitampura, SR-VI-B: Alipur, SR-VI-C: Saraswativihar, SR-VII: INA, SR-VIII: Geeta Colony and SR-IX: Kapashera

(**iii**) As per instruction No. 6 stipulated in the Manual-Volume-II of the Registration Department the books shall be maintained in the shape of butts wherein the documents shall be securely pasted and properly page numbered.

(iii) We noticed that there was delay in pasting of documents in the shape of butts in the office of three registering authorities [2] , ranging from seven to thirty eight months. The documents registered were kept loosely in bundles in violation of the manual and were therefore prone to misplacement/ loss.

(**iv**) As per rule 5 of the Delhi Registration Rules, 1976, once in six months all Sub-Registrars shall submit a certificate to the Registrar/Inspector General of Revenue to the effect that records in their charge have been examined. If any injury happens to any of the records, whether by white ants, fire, rain, water or otherwise, or if any of them be lost, an immediate report shall be made to the Registrar and Inspector General of Revenue. The Registrar shall record at the same time his opinion as to whether anyone, and if so, who is to be blamed, and also the measures to be taken to repair the injury or loss so far as may be possible and send a report to the Inspector General of Registration.

(iv) We report that the Sub-Registrars sent no such certificates to the Registrars/ Inspector General of Revenue. Therefore, we could not comment about the state of records maintained in the Sub-Registrar Offices.

(**v**) The guard file containing all the instructions, directions, orders and guidelines issued by the Department, Government or by the competent authority, is required to be maintained by each subordinate office.

(v) During test check of guard files maintained in Sub-Registrar offices we noticed the following short-comings:

a) circulars/orders/ notifications were not filed chronologically;

b) table of contents was not recorded; and

c) page numbering was not done.

We also noticed that action taken on orders/circulars/notifications by the Sub-Registrars was not ascertainable from the file. Therefore, it could not be verified from the file that instructions issued by the higher authorities from time to time were scrupulously followed by the Sub-Registrars.

After we reported the matter, the Department stated (January 2011) that observations have been sent to all the Registrars/Deputy Commissioners for

[2] SR-IV: Seelampur, SR-IV-A: Seemapuri and SR-IX: Kapashera

strict compliance. We reported the matter to the Government (November 2010) but have not received any reply (December 2010).

The Government may take necessary action to ensure that records are maintained properly.

Compliance deficiencies

3.7.10 Short payment of stamp duty due to undervaluation of properties

In order to check evasion of stamp duty the Government of National Capital Territory of Delhi introduced the minimum circle rates relating to land and buildings situated in various categories of colonies with effect from 18 July 2007. These rates of land and constructed portion of the properties were to be taken into account for computing their value and calculating stamp duty payable thereon at the time of their registration. Under Section 47-A of the Indian Stamp Act, if the registering authority has reasons to believe that the value of the property or the consideration has not been truly set forth in the instruments, he may, after registering such instruments refer the same to the Collector of Stamps for determination of the value or the consideration and the proper duty payable.

During test check of records of seven registering offices [3] between April 2008 and October 2010, we noticed that 240 instruments of Sale Deeds, Agreement to sell, General power of attorney with consideration, were registered between July 2007 and March 2010. The registering authorities were required to determine the consideration for levy of stamp duty on the basis of minimum circle rates fixed by the Government but registered these documents on stamp papers valued at ₹ 64.87 lakh on the basis of the consideration set forth in the instruments. We found that the value of these properties covered under the instruments, as per minimum circle rates fixed by the Government, however, worked out to ₹ 45.17 crore on which stamp duty of ₹ 2.99 crore was leviable.

[3] SR-II-A: Nangloi, SR-II: Janakpuri, SR-VI-A: Pitampura, SR-VI-B: Alipur, SR-VI-C: Saraswati Vihar, SR-VIII: Geeta Colony and SR-IX: Kapashera.

Non-reckoning of minimum circle rates of the immovable properties by the registering authorities resulted in short levy of stamp duty of ₹ 2.34 crore as mentioned in the following table:

(₹ in lakh)

Sl. No.	Name of the SROs	No. of cases	Nature of the instrument	Value as per minimum circle rates	Value adopted	Stamp duty leviable	Stamp duty levied	Stamp duty short paid
1	SR-II A, Nangloi	2	ATS	138.99	59.00	9.03	4.43	4.60
		19	GPA	85.78	NA	3.28	0.23	3.05
2	SR-II Janakpuri	8	ATS	147.95	35.15	13.07	2.46	10.61
		83	Sale deed	1993.18	460.66	131.56	31.88	99.68
3	SR-VI A Peetampura	5	ATS	38.52	15.97	2.82	1.15	1.67
		17	Sale Deed	357.25	66.85	24.09	4.83	19.26
4	SR-VI B Alipur	19	ATS	141.36	51.41	9.25	3.36	5.89
5	SR-VI C, Saraswati Vihar	2	ATS	30.33	15.00	1.73	0.84	0.89
6	SR-VIII, Geeta Colony	6	Sale deed	70.57	46.40	3.96	1.93	2.03
7	SR-IX Kapashera	7	ATS	213.82	31.37	14.77	2.41	12.36
		56	Sale Deed	1108.48	149.66	77.60	10.66	66.94
		16	GPA	191.25	17.40	7.62	0.69	6.93
Total		**240**		**4517.48**	**948.87**	**298.78**	**64.87**	**233.91**

After we reported the matter, the Department stated (January 2011) that the concerned Deputy Commissioners have been requested to take necessary action to recover the deficient stamp duty, if any. We reported the matter to the Government in (November 2010) but have not received any reply (December 2010).

The Government may consider strengthening of internal audit wing to ensure timely detection and correction of errors in levy and collection of revenue and avoid recurrence of mistakes pointed out.

3.7.11 Short payment of stamp duty on conveyance deed of Industrial plots and sheds

While deciding an appeal, Divisional Commissioner in April 2006 held that stamp duty is chargeable on total and full consideration which has been paid by an individual to the Delhi State Industrial and Infrastructure Development Corporation for acquiring a title in conveyance deed of an industrial shed. The consideration could have been expressed in parts and parts may be known by any name such as penalty or interest or delayed interest by the vendor. Under Section 47-A of the Indian Stamp Act, if the registering authority has reasons to believe that the value of the property or the consideration has not been truly set forth in the instruments, he may, after registering such instruments refer the same to the Collector of Stamps for determination of the value or the consideration and the proper duty payable.

During test check of records of one registering authority [4] during July 2010 to October 2010 we noticed that 62 cases of conveyance deed of industrial plots and sheds were registered between December 2007 and March 2010. The registering authority was required to determine the consideration for levy of stamp duty by including cost of land and construction of sheds, capitalisation and other cost and interest on cost of shed and delayed payments, but we found that these documents had been

[4] SR-IV: Seelampur.

registered after recovering stamp duty of ₹ 17.99 lakh on the basis of consideration of ₹ 3.89 crore set forth in the instruments. The correct consideration after including cost of land and construction of sheds, capitalisation and other cost and interest on cost of shed and delayed payments, however, works out to ₹ 9.97 crore on which stamp duty of ₹ 59.40 lakh was leviable. Non-reckoning of interest and other costs by the registering authority resulted in short levy of stamp duty of ₹ 41.41 lakh.

We also called for similar details of 384 industrial plots from Department of Industries in July 2010, but have not received any reply so far.

After we reported the matter, the Department stated (January 2011) that the concerned Deputy Commissioners have been requested to take necessary action to recover the deficient stamp duty, if any. We reported the matter to the Government in (November 2010) but have not received any reply (December 2010).

3.7.12 Non-recovery of stamp duty on 'agreement to sell'

Under Article 23A of schedule 1A of Indian Stamp Act, 1899, Stamp duty on contracts for transfer of immovable property in the nature of part performance under Section 53A of the Transfer of property Act, 1882 is chargeable at 90 *per cent* of the duty prescribed for 'Conveyance.' The remaining 10 *per cent* is charged when final 'Sale deed' is executed by the vendor in favour of the vendee as agreement to sell is only an intermediary instrument and the same is not complete unless concluded by a sale deed. **We observed that no time limit for completing the remaining transactions has been prescribed by the Department.** The Registration Department clarified in September 2007 that Agreement to sell or Instruments of part performance do not confer active title and nobody can call himself as owner by purchase on the basis of agreement to sell and the power of attorney executed by the vendor in favour of the prospective purchaser in the absence of sale deed. **We observed that properties were being purchased and sold on the basis of 'Agreement to sell' without completing the transaction by executing the sale deed.**

During the test check of records of one registering authority [5] during July 2010 to October 2010, we found that 27 instruments of 'Agreement to sell' were executed during the month of November 2006 on receipt of consideration of ₹ 8.61 crore on which stamp duty of ₹ 75.05 lakh was paid. The stamp duty included MCD transfer duty and 90 *per cent* of the duty payable to Registration Department on conveyance. However, the transactions have not been completed so far after a lapse of four years by executing the 'Sale Deed'. Thus, remaining stamp duty of 10 *per cent*

[5] SR-IX: Kapashera.

payable to the Registration Department could not be recovered from the executants.

We also noticed that 27 instruments of 'agreement to sell' were registered during September 2005 to October 2007 by the two registering authorities[6] related to properties which had been purchased earlier also on 'agreement to sell'. These properties were purchased for a consideration of ₹ 1.84 crore during July 2003 to October 2007 after payment of stamp duty of ₹ 12.32 lakh, which included MCD transfer duty and 90 *per cent* of the stamp duty payable to Registration Department on conveyance. As the 'agreement to sell' does not confer any title of the property, Sale Deeds were required to be registered before their sale. The registering authorities did not insist upon registering the Sale Deeds first before allowing the properties to be sold on 'agreement to sell' resulting in non-recovery of stamp duty of 10 *per cent,* payable to Registration Department. Thus, properties were being sold by the persons who did not hold the title to the properties resulting in evasion of the stamp duty. The non-registration of the Sale Deeds led to non-payment of stamp duty of ₹ 4.34 lakh in the above 54 cases. After the Government issued clarification in September 2007, the Department began to charge the stamp duty at full rate. However, they did not take any action to review the past cases.

After we reported the matter, the Department stated (January 2011) that the concerned Deputy Commissioners have been asked to take necessary action to recover the deficient stamp duty, if any. We reported the matter to the Government (November 2010) but have not received any reply (December 2010).

The Department stated (February 2011) during the exit conference that a draft bill on Urban Titling has been submitted to the Central Government for their approval in which provision of clear title has been made mandatory at the time of registration of the instruments. However, as of now the registration of Sale Deed is purely voluntary.

The Government may issue instructions to registering authorities to review all such cases and ask the executants to come forward to register the Sale Deeds to safeguard their interest.

[6] SR-IX: Kapashera and SR-VIB: Alipur

3.7.13 Short levy of stamp duty due to misclassification of documents

Section 54 of the Transfer of Property Act, 1882 defines 'sale' as transfer of ownership in exchange for a price paid or promised or part paid or part promised. The classification of an instrument depends upon the nature of the transaction recorded therein. In case possession of the property is handed over after receipt of the full amount of consideration or promise to pay consideration later on, the instrument becomes a conveyance deed and stamp duty becomes leviable under the stamp duty Act.

During test check of the records of one registering office [7] between July 2010 and October 2010, we noticed that 42 instruments of agreement to sell conveying possession and transfer of property after receipt of full consideration of ₹ 8.26 crore to the vendees were executed between April 2006 and March 2009. Since the vendors had received full consideration in lieu of the property sold and the possession of the immovable property was also handed over to the purchasers in all these cases, the deeds were liable to be treated as conveyance deeds on which stamp duty of ₹ 63.27 lakh was leviable. However, registering authorities misclassified and registered these instruments as agreements charging stamp duty of ₹ 59.34 lakh. This resulted in short realisation of stamp duty of ₹ 3.93 lakh.

After we reported the matter, the Department stated (January 2011) that the concerned Deputy Commissioners have been requested to take necessary action to recover the deficient stamp duty, if any. We reported the matter to the Government in (November 2010) but have not received any reply (December 2010).

The Government may take necessary steps to recover the deficient stamp duty from the executants.

3.7.14 Irregularities in maintenance of accounts of stamp papers

There is one Treasury in Delhi, which has been authorised to sell stamps/stamp papers to stamp vendors/special stamp vendors and the general public. The State Bank of India was also given special stamp vendor license to sell stamp papers to the general public. The practice of selling non-judicial stamp papers by the State Bank of India and Treasury was, however, discontinued after introduction of e-stamping in April 2008, but huge stock of stamps/stamp papers are still lying with them.

3.7.14.1 During test check of records of Delhi Treasury between July 2010 and October 2010, we noticed that a large number of stamps/stamp papers, which were purchased during January 1998 to April 2005, are lying

[7] SR-IX: Kapashera.

unsold as detailed below:

(₹ in lakh)

Sl. No.	Category of stamps	Denomination of stamps	Date from which lying	Total value
1	Foreign Bills	25 paise 50 paise ₹ 1 ₹ 2	16.01.1998 01.04.2005 16.08.2003 11.09.2003	27.66
2	Revenue stamps	15 paise	01.11.2004	34.62
3	G O I Insurance	₹ 1, ₹ 2, ₹ 5, ₹ 10 and ₹ 25	19.10.2000 -do-	49.48
4	Non-Judicial	₹ 501 and above	01.08.2008	124197.00
Total				**124308.76**

These stamps/stamp papers worth ₹ 1243.09 crore are now not in use. Some of these are lying unsold in the treasury for more than 12 years and can be misused. The Department has not taken any action to dispose them off.

After we pointed out the case in August 2010, the Department stated in August 2010, that the process to dispose off the stamps is under consideration since June 2010. Thus the Department has not acted to dispose them off for over two years after the introduction of e-stamping.

3.7.14.2 Revenue Department in December 2005 issued special vendor license to the State Bank of India for sale of non-judicial stamp papers to general public through its 30 branches in Delhi. For this work, the bank was paid commission/discount @ 2.5 *per cent* of the amount of sale made on monthly basis after reconciliation of sale figure with Pay Accounts Office-VI. The Tis Hazari branch of the bank was designated as nodal branch which would maintain all the records related to receipts of stamp papers and their sale through its branches and claim commission from Delhi Treasury. However, on introduction of e-stamping through Stock Holding Corporation of India Limited in April 2008, the sale of non-judicial stamp papers through State Bank of India branches was discontinued with effect from 1 August 2008.

During test check of records of the Delhi Treasury, we noticed that huge stock of un-used non-judicial stamp papers were lying with the State Bank of India. As per Delhi Treasury accounts duly reconciled with the Pay and Accounts Office-VI, non-judicial stamp papers of ₹ 22.71 crore are lying with the bank. This position is contested by the bank which claims to have stock of stamp papers of ₹ 23.07 crore. In fact stamp papers worth ₹ 140.80 crore were delivered to State Bank of India for sale between April 2008 and July, 2008, i.e., well after the introduction of e-stamping in April, 2008 which contributed to the huge stock the bank is having now. We also noticed that the bank has made sale of non-judicial stamp papers worth ₹ 1.11 crore in the month of August 2008. This sale was made after the date from which it was asked to discontinue the business. Due to non-reconciliation of accounts of the stamp papers, the bank did not return the un-used stock of stamp papers to the treasury. Failure of the Department to reconcile the accounts of un-used stock of non-judicial stamp papers resulted in non-recovery of un-sold stamp papers from State Bank of India.

After we reported the matter, the Department stated (January 2011) that they have vigorously taken up the reconciliation with SBI authorities. They further stated that the SBI authorities have so far not given the details of sold and unsold accounts of Stamp papers issued to them due to which there is delay in reconciliation and recovery of unsold stock. We reported the matter to the Government in (November 2010) but have not received any reply (December 2010).

The Department informed (February 2011) during the exit conference that matter of reconciliation of accounts of stamp papers with the SBI has been taken up at the highest level.

The Department may recover un-used stamp papers from State Bank of India and dispose them off along with the obsolete stamp papers lying with the Delhi Treasury so that their misuse in future is avoided.

3.7.14.3 The Stock Holding Corporation of India collects money and generates e-stamping certificates having unique number through a computer system which are used for registration of various instruments. The e-stamping certificate is locked by the sub-registrar after registration of the document for which it was purchased. In case of the deal not materialising, the purchaser can apply for refund which is granted after canceling the e-stamp certificate. The e-stamp certificates which are neither used for registration nor for obtaining refunds remain unlocked.

We obtained information from 'Stock Holding Corporation of India' for the period from 01 April 2005 to 31 March 2010 relating to the locked e-certificates, cancelled e-stamp certificates and unlocked e-stamp certificates and verified if certificates used for registration or obtaining refunds have been properly locked or cancelled as the case may be. We did not notice any irregularity while conducting the above exercise.

3.7.15 Undue delay in finalisation of impounded cases

Under Section 47-A of the Indian Stamp Act, if the registering authority has reasons to believe that the value of the property or the consideration has not been truly set forth in the instruments, he may, after registering such instruments refer the same to the Collector of Stamps for determination of the value or the consideration and the proper duty payable. The Collector, after issue of notice to the concerned person, is required to conduct summary enquiry as he may deem proper and assess the amount of deficient duty recoverable from the persons concerned after determining the value of the property. The cases so referred to the Collector are entered in register in Form-D maintained in office of Sub-Registrar. After their finalisation these cases called 'adjudication cases' are returned to the concerned registering authority who will watch the recovery of deficient duty. **We observed that no time limit had been fixed for disposal of such cases under adjudication.**

During test check of the Register of impounded cases of seven registering authorities[8], we noticed that 461 cases referred to the Collectors during 2005-06 to 2009-10 were pending adjudication as follows:

Sl No	Name of the Sub-Registrar Office	No. of instruments pending					
		2005-06	2006-07	2007-08	2008-09	2009-10	Total
1	SR-III Asaf Ali Road	Nil	Nil	Nil	Nil	119	119
2	SR-IV Seelampur	Nil	Nil	9	12	Nil	21
3	SR-IV A Seemapuri	Nil	Nil	Nil	41	11	52
4	SR-V Mehrauli	Nil	Nil	Nil	Nil	31	31
5	SR-VI C Saraswativihar	Nil	Nil	34	16	13	63
6	SR-VII, INA Vikas Sadan	Nil	NA	NA	NA	1	1
7	SR-IX Kapashera	65	55	23	21	10	174
	Total	**65**	**55**	**66**	**90**	**185**	**461**

We further report that details of stamp duty involved in these cases was not available in the register. Delay in deciding the cases resulted in delay in realisation of the revenue and in certain cases the possibility of recovering the dues may become remote.

After we reported the matter, the Department stated (January 2011) that the concerned Deputy Commissioner and Collector of Stamps have been asked to take immediate steps to recover the deficient stamp duty. We reported the matter to the Government in (November 2010) but have not received any reply (December 2010).

The Government may consider fixing time frame for finalisation of cases of undervaluation referred to the Collector for adjudication.

[8] SR-III: Asaf Ali Road, SR-IV: Seelampur, SR-IV-A: Seemapuri, SR-V: Mehrauli, SR-VI-C: Saraswati Vihar, SR-VII, INA Vikas Sadan and SR-IX: Kapashera

3.7.16 Internal control

Inspection is an important internal control in the hands of the administration for ascertaining that rules and procedures prescribed by the Department are being followed and are sufficient to safegurd proper collection of revenue. As per orders issued by the Divisional Commissioner in January 2008, periodical stamp audit/inspection and examination of the deeds/instruments registered in the Sub-Registrar Offices and particulars filed by the executants in the Form 'A' should be conducted by the Deputy Commissioner/Collector of stamps to check the evasion of stamp duty. **We report that no target for stamp audit/inspection and examination of instruments registered in the office of registering authorities had been prescribed.**

During test check of records of 13 registering authorities[9] between July 2005-06 and 2009-10, we noticed that periodical stamp audit/ inspection and examination of the deeds/ instruments registered in the Sub-Registrar Offices and particulars filed by the executants in the Form 'A' have not been conducted by the Deputy Commissioner/ Collector of stamps to check the evasion of stamp duty.

After we reported the matter, the Department stated (January 2011) that there is no provision in the Registration Act, 1908 and Delhi Stamp (Prevention of Undervaluation of Instruments) Rules, 2007 to carry out the inspection in pursuance of Form 'A' submitted by the executants of the instruments for registration. They further stated that the matter would be examined by the Department for necessary action on the advice given by Audit.

The Department is silent about the circular issued by the Divisional Commissioner in January 2008, which forms the basis of the audit observations. We reported the matter to the Government (November 2010) but have not received any reply (December 2010).

The Government may fix target for stamp audit/inspection and examination of instruments registered in the office of registering authorities and prescribe returns from Registrars/Sub-Divisional Magistrates containing details of inspections carried out by them and result thereof.

[9 & 10] SR-I: Kashmere Gate, SR-II: Janakpuri, SR-II-A: Nangloi, SR-III: Asaf Ali Road, SR-IV: Seelampur, SR-IV-A: Seemapuri, SR-V: Mehrauli, SR-VI-A: Pitampura, SR-VI-B: Alipur, SR-VI-C: Saraswativihar, SR-VII: INA, SR-VIII: Geeta Colony and SR-IX: Kapashera

3.7.17 Internal audit

Internal audit is a vital component of the control mechanism and is generally defined as control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well. The internal audit wing of the Finance Department of Government of National Capital Territory of Delhi conducts the internal audit of the Revenue Department. The internal audit wing is required to conduct audit of the office of Inspector General of Registration, Treasury and13 Sub-Registrar offices.

During test check of records of the 13 registering authorities[10] between July 2010 and October 2010, we noticed that only 10 units were audited during the period from 2005-06 to 2009-10 as mentioned in the following table:

Sl. No.	Year	No of units actually inspected by IAW
1	2005-06	Nil
2	2006-07	4
3	2007-08	5
4	2008-09	Nil
5	2009-10	1
Total		**10**

As can be seen from the above the coverage of various units of registration department by the internal audit wing was inadequate. Hence, the deficiencies in maintenance of records and levy of duties remained unchecked. We called for the year-wise breakup of inspection reports/paragraphs issued by the internal audit wing during the years 2005-06 to 2009-10. The Department did not furnish the required details. Therefore, efficiency of the Department in taking remedial action could not be vouched safe in audit.

The Department accepted (February 2011) the fact during the exit conference and intimated that Finance Department has been requested to take up the audit of various units of the Department on regular basis.

The Government may ensure that the internal audit wing conducts the number of inspections required and ensure time bound action by the registering authorities on the observations of the internal audit wing so as to safeguard the interest of revenue and avoid recurrence of mistakes pointed out.

3.7.18 Conclusion

Stamp duty and registration fee is an important tax revenue of the State. Evasion of stamp duty and registration fee is commonly effected through under valuation of properties, non-presentation of documents in the office of the registering authority and short payment of stamp duty by the executants on documents submitted. The Department failed to co-ordinate with the various offices receiving registrable instruments that led to wide spread leakage of revenue which remained undetected. The internal controls of the Department are very weak as is evidenced by the number of inspections conducted.

Neither has any time limit been prescribed for disposal of the cases under adjudication nor any return prescribed for sending the information to the higher authorities. This resulted in very large pendency of cases. Finally, the Sub-Registrar Offices responsible for maintaining the property documents of executants were not maintaining the records efficiently to ensure proper storage and retrieval.

3.7.19 Summary of recommendations

The Government may consider taking the following actions for rectifying the systemic and other issues:

- ***declaring all offices in which documents are presented as public offices and laying down norms/targets for the inspection of these public offices by the Registrars/Sub-Registrars of the concerned districts/zones to ensure that compulsorily registrable documents are registered with the concerned registering authorities and correct stamp duty and registration fee paid on them. The Government may also consider prescribing a periodical return to be furnished by these offices to the Revenue Department on the number and nature of documents presented and deficient stamp duty/registration fee paid;***
- ***strengthening the internal audit wing to ensure timely detection and correction of errors in levy and collection of revenue and avoid recurrence of mistakes pointed out;***
- ***ensuring that the Department reviews registers and ensures prompt disposal of all pending adjudication cases. The monitoring at the apex level may be done by prescribing periodical returns. A time limit for finalisation of these cases may also be prescribed;***
- ***prescribing a report/return to be furnished by the Registrars/Sub-Divisional Magistrates mentioning the quantum of inspections done against the target fixed; and***
- ***ensuring that all the records as prescribed under various rules are properly maintained in the registering office and periodically submitted to the higher authorities.***

CHAPTER IV
STATE EXCISE

4.1 Tax administration

The State Excise, Entertainment and Luxury Tax Department functions under the administrative control of the Commissioner of Excise, Entertainment and Luxury tax for the administration of levy and collection of State Excise duties, Luxury, Entertainment and Betting taxes from hoteliers, cinema halls, cable service providers and from betting activities.

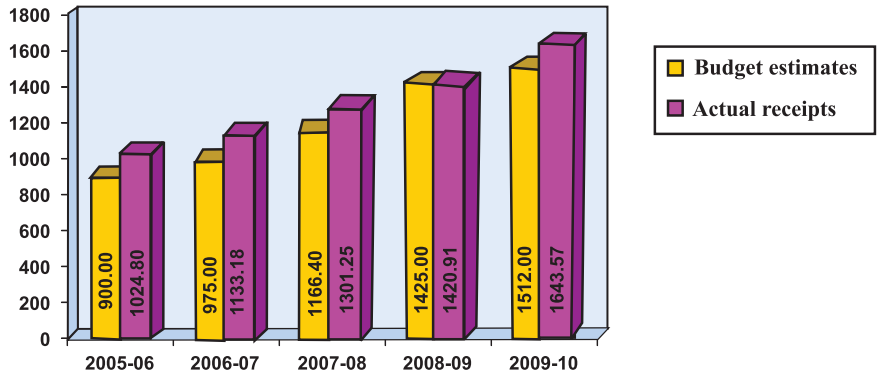
4.2 Trend of receipts

Actual receipts from taxes on State Excise, Entertainment and Betting tax during the years 2005-06 to 2009-10 along with the total tax/non-tax receipts during the same period are exhibited in the following table and graph:

(₹ in crore)

Head of the revenue	Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
State excise	2005-06	900.00	1024.80	(+) 124.80	(+) 13.87	8939.28	11.46
	2006-07	975.00	1133.18	(+) 158.18	(+) 16.22	10155.80	11.16
	2007-08	1166.40	1301.25	(+) 134.85	(+) 11.56	11782.80	11.04
	2008-09	1425.00	1420.91	(-) 4.09	(-) 0.29	12180.70	11.67
	2009-10	1512.00	1643.57	(+) 131.57	(+) 8.70	13447.86	12.22

TREND OF RECEIPTS



It is seen that the variation between BEs and actual receipts which was as high as 14 *per cent* during 2005-06 came down to 0.3 *per cent* during 2008-09.

4.3 Cost of collection

The gross collection in respect of State Excise, Luxury and Entertainment tax receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2009-10 along with the relevant all India average percentage of expenditure on collection to gross collection for the year 2008-09 are mentioned below:

(₹ in crore)

Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2008-09
State Excise	2007-08	1301.25	6.53	0.50	3.66
	2008-09	1420.91	6.89	0.48	
	2009-10	1643.57	9.34	0.57	

From the above table it was evident that the percentage of expenditure on collection of State Excise, Luxury and Entertainment tax was however lower than the All India average percentage.

4.4 Revenue impact

During the last five years (including the current year's report), audit through its audit reports has pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 21.26 crore in nine paragraphs. Of these, the Department/Government has accepted audit observations in two paragraphs involving ₹ 14.27 lakh and have since recovered ₹ 14.27 lakh. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted	Amount recovered
	No.	Amount	Amount	Amount
2004-05	5	5.46	0.14	0.14
2005-06	2	14.80	0.00	0.00
2006-07	1	0.09	0.00	0.00
2007-08	Nil	0.00	0.00	0.00
2008-09	1	0.91	0.00	0.00
Total	**9**	**21.26**	**0.14**	**0.14**

*Note: *Due to partial acceptance of paragraphs by the departments, the exact number of paragraphs including money value could not be ascertained.*

4.5 Internal Audit

The Departments had no internal audit mechanism of their own. The Director of Audit of the Finance Department of Government of NCT of Delhi is entrusted with internal audit function for all the offices/Departments of Government of NCT of Delhi including Entertainment and Luxury tax Department etc.

The Directorate of Audit of the Finance Department has conducted the internal audit of the Entertainment and Luxury tax Department for the period 2007-08.

4.6 Results of audit

Test check of records relating to Excise duty and Luxury, Entertainment and Betting tax conducted during the year 2009-10 revealed loss of revenue, short levy of tax and other irregularities involving ₹ 18.41 lakh in 10 cases which fall under the following categories:

(₹ in lakh)

Sl. No.	Categories	No. of paras	Amount
Luxury, Entertainment & Betting Tax			
1.	Non-recovery of additional luxury tax and interest	1	12.34
2.	Non-levy of interest on delay in remission of entertainment tax	1	2.46
3.	Others	8	3.61
Total		**10**	**18.41**

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 43.75 lakh in 34 cases which were pointed out in audit during the year 2009-10. An amount of ₹ 31.42 lakh was realised in 31 cases during the year 2009-10.

Two illustrative audit observations involving ₹ 14.80 lakh are mentioned in the succeeding paragraphs.

4.7 Audit observations

During scrutiny of records in the Commissioner of Excise, Entertainment and luxury Tax and relating to revenue receipt, we observed several cases of non-observance of provisions of Acts/ Rules resulting in non-recovery of interest on delay in payment of luxury tax as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We pointed out such omissions each year, but not only do the irregularities persist but these remain undetected till an audit is conducted. There is, therefore, a need for the Government to improve the internal control system so that occurrence of such cases can be avoided.

4.8 Non-recovery of additional luxury tax and interest

The Delhi Luxury Tax Act 1996 stipulates that the amount of tax due from the hotelier shall be assessed separately for each year during which he is so liable. If the Commissioner is satisfied that the returns filed by the hotelier are correct and complete, he shall assess the amount of tax on the basis of returns filed by him. Additional demands, if any, raise as a result of such assessments are to be paid into Government treasury within a period of thirty days from the date of assessment order. In case the additional demand is not paid within the stipulated period of 30 days, simple interest at the rate of 2 *per cent* of the amount of tax of each month after the last date by which he should have paid tax is levied. If it remains unpaid, it is recoverable as an arrear of land revenue. Further, Section 20 of DLT Act provides for recovery of luxury tax as arrear of land revenue.

We noticed during the test check of the records of O/o the Commissioner of Excise, Entertainment & Luxury Tax between April 2009 and March 2010 that the additional demand of tax for ₹ 9.42 lakh raised during the period from 18th December 2008 to 3rd August 2009 against three hotels was not recovered so far. In addition to tax, interest of ₹ 2.92 lakh for delay in payment of tax for period ranging from 271 to 499 days was also leviable.

After the case was pointed out, the Department has raised the claim for same. However, the hoteliers have gone on appeal against the claims raised (October 2010).

4.9 Non-levy of interest on delay in remission of entertainment tax to Government Account

Rule 25(1) of Delhi Entertainment and Betting Tax rules, 1997 stipulate that a "proprietor of every entertainment shall deposit the amount of tax into Government account within four days from the last date of each week" and Section 40 of the Delhi Entertainment and Betting Tax Act, 1996 provides that "if any proprietor fails to pay tax due as required under the provisions of this Act or Rules made thereunder, he shall in addition to tax (including any penalty) due, be liable to pay simple interest on the amount so due at 1.5 *per cent* per month from the date immediately following the last date of payment of tax for a period of one month, and at 2 *per cent* per month thereafter so long as he continues to make default in such payment".

We noticed during the test check of the records of the office of the Commissioner of Excise, Entertainment & Luxury Tax between April 2009 and March 2010 that out of 52 returns there was delay in 35 returns in depositing Entertainment Tax into the Government account ranging from 13 to 118 days. Failure to take action to recover the interest due resulted in non-realisation of interest receipt of ₹ 2.46 lakh.

We reported the matter to the Department and the Government in June 2010 but have not received any reply (December, 2010).

New Delhi **(RAJVIR SINGH)**
Dated: **Accountant General (Audit), Delhi**

Countersigned

New Delhi **(VINOD RAI)**
Dated: **Comptroller and Auditor General of India**