PREFACE

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

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising taxes on sales, trade etc./value added tax, stamp duty and registration fee, state excise duty, taxes on vehicles, passengers and goods tax, agriculture (purchase tax) and non-tax receipts of the State.

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

OVERVIEW

This Report contains 21 paragraphs including two reviews relating to non/short levy of taxes, duties, interest and penalty etc., involving tax effect of ` 346.97 crore. Some of the major findings are mentioned below:

1. General

- The total revenue receipts of the State Government for the year 2009-10 were ` 20,992.66 crore. Revenue raised by the Government during the year was ` 15,960.90 crore, comprising tax revenue of ` 13,219.50 crore and non-tax revenue of ` 2,741.40 crore. The State Government also received ` 1,774.47 crore as State's share of divisible Union taxes and ` 3,257.29 crore as grants-in-aid from the Government of India.

(Paragraph 1.1.1)

- At the end of June 2010, 5,122 audit observations involving ` 1,507.03 crore relating to 2,460 inspection reports issued upto December 2009 remained outstanding.

(Paragraph 1.2.1)

- Test check of the records of the sales tax/value added tax, stamp duty and registration fee, state excise, taxes on goods and passengers, taxes on vehicles, other tax and non-tax receipts conducted during the year 2009-10 revealed underassessments/short levy/non-levy/loss of revenue aggregating ` 596.47 crore in 6,331 cases. During the course of the year 2009-10, the departments accepted underassessment of ` 191.53 crore in 2,236 cases. Of these, the departments recovered ` 3.44 crore in 261 cases.

(Paragraph 1.5.1)

2. Sales Tax/Value Added Tax

Excise and Taxation Department

- Value added tax (VAT) of ` 10.20 crore (including interest) was underassessed on annual rent of leased machinery and equipments due to application of concessional rate (four *per cent*) instead of correct rate of 10 *per cent* leviable.

(Paragraph 2.13.1.1)

- Application of lump sum rate of tax on the sale of pre owned cars by four dealers, dealing in sale and purchase of cars, instead of correct rate of VAT (12 *per cent* upto 30 June 2005) resulted in underassessment of VAT of ` 4.55 crore (including interest).

(Paragraph 2.13.1.2)

- Incorrect levy of concessional rate (four *per cent*) of tax on sale of spare parts and components of motor vehicles, and rags purchased

against declaration in form VAT-D1 for use in the manufacture of goods instead of correct rates applicable to such goods resulted in short levy of VAT amounting to ` 5.74 crore.

(Paragraph 2.13.2.1 and 2.13.2.2)

- VAT of ` 63.56 lakh (including interest) was underassessed due to levy of lump sum tax at two *per cent* instead of at four *per cent* leviable during the years 2003-04 to 2005-06.

(Paragraph 2.13.3)

- Application of incorrect rates of tax on the sale of Rooh Afza, pressure cookers, medicines, tyres and tubes and motor vehicle parts resulted in underassessment of VAT of ` 59.97 lakh (including interest).

(Paragraph 2.13.5)

- Four dealers (Panipat: 3; Ambala Cantonment: 1), after obtaining supply orders and purchasing the material from outside the State, supplied the same worth ` 514.84 crore directly to the sites of the works of the contractees and purchasers through their accounts. The assessing authorities allowed the claim of exempted (transit) sales against E-I or E-II and 'C' forms incorrectly which resulted in underassessment of VAT of ` 82.47 crore (including penalty).

(Paragraph 2.14.1.1 and 2.14.1.2)

- Allowing deductions of ` 41.64 crore treating the sale of HDPE fabrics as tax free goods incorrectly resulted in non-levy of VAT of ` 9.19 crore (including interest).

(Paragraph 2.14.2)

- Inadmissible allowance of deductions aggregating to ` 13.19 crore from the gross turnover of works contractor, who did not opt for lump sum payment of tax, resulted in underassessment of VAT amounting to ` 2.45 crore (including interest).

(Paragraph 2.14.3.1)

- Failure of the assessing authorities to cross verify the transactions of sales and purchases from the departmental authorities within Haryana before finalising the assessments led to evasion of VAT amounting to ` 1.60 crore (including penalty).

(Paragraph 2.15.1.1)

3. Stamp Duty and Registration Fee

Revenue Department

A review of **Levy and collection of stamp duty and registration fee** revealed the following**:**

- No system was devised by the Department 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 due for registration under the Acts but not presented for registration had deprived the Government of revenue of ` 3.58 crore.

(Paragraph 3.6.8.1 to 3.6.8.4)

- Irregular remission of registration fee of ` 4.33 crore in the absence of enabling provision to remit the fee under the Indian Registration Act, 1908.

(Paragraph 3.6.9)

- Stamp duty and registration fee of ` 9.19 crore was short levied on sale deeds of plots with an area less than 1,000 square yards due to application of lower rates and non-reckoning of the market value of the properties as per rates fixed by the Evaluation Committee.

(Paragraph 3.6.10.1 and 3.6.10.2)

- Lack of a prescribed time frame for the disposal of cases under adjudication by the Collector resulted in non-finalisation of 1,163 cases of undervaluation of immovable properties involving stamp duty of ` 5.34 crore.

(Paragraph 3.6.11)

- Stamp duty and registration fee of ` 6.37 crore was short levied/realised due to misclassification of instruments.

(Paragraph 3.6.12.1 and 3.6.12.2)

- Delay in implementation of the enhanced rates of registration fee resulted in short realisation of registration fee of ` 1.13 crore.

(Paragraph 3.6.13)

4. State Excise

Excise and Taxation Department

- Penalty of ` 2.62 crore imposed on 1,07,436 bottles of illicit country liquor was neither paid by the defaulters nor the Department initiated any action to recover the amount by auctioning the confiscated vehicles.

(Paragraph 4.9.1.1)

- Non-initiation of action to recover the differential amount of license fee from 25 defaulting allottees of retail liquor outlets even after reauction of vends at their risk and cost deprived the Government of revenue of ` 1.83 crore.

(Paragraph 4.9.2.1)

- Non-payment of monthly instalments of license fee by 23 licensees of retail liquor outlets for the period between April 2006 and

December 2008 in full by the prescribed dates resulted in short recovery of license fee and interest of ` 67.58 lakh.

(Paragraph 4.9.2.2)

5. Other Tax Receipts

Excise and Taxation Department

- Passengers tax amounting to ` 65.27 lakh (including interest) was not demanded by the department in respect of buses of transport co-operative societies, educational institutions and city bus operators.

(Paragraph 5.9.1.1 to 5.9.1.3)

Transport Department

- Non-registration of vehicles designed to carry more than six persons excluding driver in the name of companies/firms as transport vehicles resulted in short realisation of token tax of ` 45.84 lakh, besides permit fee.

(Paragraph 5.10.1.1)

- Token tax of ` 33.03 lakh was not demanded by 10 Regional Transport Authorities from the owners of stage carriage bus operators for the different periods between April 2007 and March 2009.

(Paragraph 5.10.1.2 and 5.10.1.3)

6. Non-Tax Receipts

Finance Department

A review of **Receipts from guarantee fee** revealed the following:

- State Government do not have reliable data base regarding guarantees given. The information about guarantee fee to be collected is neither available with the Finance Department nor with the respective administrative departments.

(Paragraph 6.2.8)

- Power Department had issued letters of comfort for loans raised by Power Utilities amounting to ` 10,813.75 crore during the period 2004-05 to 2008-09 which deprived the Government of guarantee fee of ` 216.28 crore.

(Paragraph 6.2.9)

- Guarantee fee of ` 181.15 crore for the years 2004-05 to 2008-09 was short deposited by four food procuring units due to application of incorrect rate.

(Paragraph 6.2.10)

- Non-raising of demand in respect of the Haryana State Co-operative Agriculture and Rural Development Bank Limited, Panchkula resulted in short realisation of guarantee fee of ` 12.46 crore.

(Paragraph 6.2.11)

Town and Country Planning Department

- Licence fee amounting to ` 1.36 crore remained unrealised due to non-renewal of licences by two colonisers/developers.

(Paragraph 6.4.1)

- Negligence on the part of the Department to recover the differential amount of the licence fee either by inserting a clause in the letter of intents or at the time of grant of licence in May and July 2008 as a result of revision of rates effective from April 2008 deprived the Government of revenue of ` 1.36 crore.

(Paragraph 6.4.2)

Public Health Department

- Water charges aggregating to ` 56.54 lakh was not demanded by the department from owners of 224 un-metered water supply connections of commercial, institutional and industrial establishments for the period between December 2006 and March 2009.

(Paragraph 6.5)

CHAPTER-I: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Haryana during the year 2009-10, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India (GOI) during the year and the corresponding figures for the preceding four years are mentioned below:-

(` in crore)

Sr. No.	Particulars	2005-06	2006-07	2007-08	2008-09	2009-10
1.	**Revenue raised by the State Government**					
	• Tax revenue	9,078.65	10,927.76	11,617.82	11,655.28	13,219.50
	• Non-tax revenue	2,458.56	4,590.76	5,097.08	3,238.45	2,741.40
	Total	**11,537.21**	**15,518.52**	**16,714.90**	**14,893.73**	**15,960.90**
2.	**Receipts from the GOI**					
	• Share of net proceeds of divisible Union taxes and duties[1]	1,200.97	1295.64	1,634.36	1,724.62	1,774.47
	• Grants-in-aid	1,115.13	1,138.27	1,401.48	1,833.96	3,257.29[2]
	Total	**2,316.10**	**2,433.91**	**3,035.84**	**3,558.58**	**5,031.76**
3.	**Total revenue receipts of the State Government (1 and 2)**	**13,853.31**	**17,952.43**	**19,750.74**	**18,452.31**	**20,992.66**
4.	**Percentage of 1 to 3**	**83**	**86**	**85**	**81**	**76**

The above table indicates that during the year 2009-10, the revenue raised by the State Government (` 15,960.90 crore) was 76 *per cent* of the total revenue receipts against 81 *per cent* in the preceding year. The balance 24 *per cent* of receipts during the year 2009-10 was from the GOI.

The increase of ` 1,423.33 crore (78 *per cent*) in grants-in-aid in 2009-10 over the previous year was mainly on account of increase in non-plan grants of ` 1,093.96 crore (77 *per cent*), State plan grants of ` 189.05 crore (13 *per cent*) and Centrally sponsored schemes of ` 140.32 crore (10 *per cent*).

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[1] For details please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Haryana for the year 2009-10. Figures under the head 0021 - Taxes on income other than corporation tax - share of net proceeds assigned to States booked in the Finance Accounts under A - Tax revenue have been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

[2] This amount includes ` 1.69 crore as adjustment of previous years.

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

(` in crore)

Sr. 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./value added tax (VAT)	5,604.45	6,853.24	7,720.98	8,154.73	9,032.37	(+) 11
2.	State excise	1,106.86	1,217.10	1,378.81	1,418.53	2,059.02	(+) 45
3.	Stamps and registration fees						
	Stamps – judicial	20.18	985.62	91.37	1,030.90	945.91	(-) 8
	Stamps – non-judicial	1,301.27	778.46	1,651.94	267.27	341.86	(+) 28
	Registration fees	18.28	0.90	19.97	28.22	5.79	(-) 79
4.	Taxes on goods and passengers	757.60	738.41	379.39	370.29	391.45	(+) 6
5.	Taxes on vehicles	172.13	223.66	233.79	239.30	277.07	(+) 16
6.	Taxes and duties on electricity	61.53	98.28	107.45	106.31	119.58	(+) 12
7.	Land revenue	13.12	12.99	9.38	8.58	9.43	(+) 10
8.	Other taxes and duties on commodities and services	23.23	19.10	24.74	31.15	37.02	(+) 19
Total		**9,078.65**	**10,927.76**	**11,617.82**	**11,655.28**	**13,219.50**	**(+) 13**

The following reasons for variations were reported by the concerned departments:

- **State Excise:** The increase in revenue receipts (45 *per cent*) was mainly due to increase in consumption of country liquor, Indian made foreign liquor (IMFL) and beer and as well as increase in the license fee of the country liquor and IMFL.
- **Taxes on vehicles:** The increase in revenue receipts (16 *per cent*) was mainly due to better checking by the enforcement staff and compounding of vehicles violating the provisions of the Motor Vehicles Act.
- **Other taxes and duties on commodities and services:** The increase in revenue receipts (19 *per cent*) was mainly due to more collection from entertainment tax.

The other departments did not inform (August 2010) the reasons for variations, despite being requested (April 2010).

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

(` in crore)

Sr. 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.	Urban development	714.09	2,562.34	2,805.24	884.50	133.70	(-) 85
2.	Interest receipts	442.48	648.63	757.20	776.28	667.88	(-) 14
3.	Road transport	548.44	571.18	622.56	645.04	699.57	(+) 8
4.	Non-ferrous mining and metallurgical industries	152.60	136.83	215.74	195.97	247.49	(+) 26
5.	Other administrative services	84.35	61.94	105.54	120.95	96.81	(-) 20
6.	Miscellaneous general services	183.38	130.22	91.25	89.39	95.93[3]	(+) 7
7.	Major and medium irrigation	64.13	87.19	72.27	74.01	218.56	(+) 195
8.	Education, sports, art and culture	92.06	111.62	117.70	156.10	285.10	(+) 83
9.	Police	7.49	22.79	41.44	55.22	35.11	(-) 36
10.	Forestry and wildlife	32.84	38.62	33.79	40.74	56.13	(+) 38
11.	Medical and public health	30.50	31.59	64.91	30.94	30.23	(-) 2
12.	Other non-tax receipts	106.20	187.81	169.44	169.31	174.89	(+) 3
Total		**2,458.56**	**4,590.76**	**5,097.08**	**3,238.45**	**2,741.40**	**(-) 15**

The following reasons for variations were reported by the concerned departments:

- **Urban development:** The decrease in revenue receipts (85 *per cent*) was due to recession in the real estate and accordingly less receipt received from the colonisers, less receipt of fresh applications and many colonisers had taken refund.
- **Non-ferrous mining and metallurgical industries:** The increase in revenue receipts (26 *per cent*) was due to grant of mines for operation for a period of six months as per relaxation granted (May 2009) by the Hon'ble

[3] Includes Debt relief of ` 96.67 crore given by GOI on repayment of consolidated loan.

Punjab and Haryana High Court to operate mines without environmental clearance.

- **Major and medium irrigation:** The increase in revenue receipts (195 *per cent*) was mainly due to major amount received from Town and Country Planning, Haryana on account of share cost for the construction of Renuka Dam.
- **Police:** The decrease in revenue receipts (36 *per cent*) was mainly due to less receipts from Railways and other Governments on account of deployment of police force.
- **Forestry and Wildlife:** The increase in revenue receipts (38 *per cent*) was mainly due to supply of crates to other departments and more receipts from user agencies.

The other departments did not inform (August 2010) the reasons for variations, despite being requested (April 2010).

1.2 Response of the departments/Government towards Audit

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

A brief introduction about the various stages of action on the audit observations/recommendations is mentioned below:

The Principal Accountant General (Audit) Haryana (PAG) 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 PAG within six weeks from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the departments and the Government. Some of these are reported through Report of the Comptroller and Auditor General of India (Audit Report) to the State Legislature every year. The departments are requested to submit their replies to the Public Accounts Committee (PAC) which examines them in their meetings and give their reports to the State Legislature.

IRs issued upto December 2009 disclosed that 5,122 paragraphs involving ` 1,507.03 crore relating to 2,460 IRs remained outstanding at the end of

June 2010 as mentioned below along with the corresponding figures for the preceding two years.

	June 2008	June 2009	June 2010
Number of outstanding IRs	3,642	2,868	2,460
Number of outstanding audit observations	6,329	6,553	5,122
Amount involved (` in crore)	6,451.39	8,663.68	1,507.03

The department-wise details of the IRs and audit observations outstanding as on 30 June 2010 and the amount involved are mentioned below:

Sr. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (` in crore)
1.	Excise and Taxation	Sales tax/VAT	239	1,288	497.36
		State excise	107	148	56.23
		Taxes on goods and passengers	135	239	15.41
		Entertainment duty and show tax	24	24	1.40
2.	Revenue	Stamps and registration fees	932	1,978	52.10
		Land revenue	113	172	0.47
3.	Transport	Taxes on vehicles	268	363	7.25
4.	Power	Taxes and duties on electricity	6	6	85.95
5.	Agriculture (Sugarcane)	Purchase tax on sugarcane	33	35	27.90
6.	Urban Development (Town and Country Planning)	Services and service fees for urban development schemes	3	11	623.34
7.	Home (Police)	Receipts of cost of police deployed to other Governments/ Railways etc.	53	57	27.70
8.	Mines and Geology	Non-ferrous mining and metallurgical industries	119	184	18.18
9.	Forest and Environment	Forestry and wild life	15	109	10.27
10.	Other Departments	Miscellaneous receipts	413	508	83.47
Total			**2,460**	**5,122**	**1,507.03**

Even the first replies required to be received from the heads of offices within six weeks from the date of issue of the IRs were not received for 159 IRs issued upto December 2009. This pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and heads of the

departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs.

It is recommended that the Government may take suitable steps to install an effective procedure for prompt and appropriate response to audit observations. The Government may take action against officers/officials 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 in September 1985 to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The Audit Committees may be formed for each Administrative Department and included Administrative Secretary (Chairman), Deputy Accountant General (Convenor) and Heads of Department (Member). The meetings of these committees may be arranged once in three months to review the progress of the settlement of audit paras and to monitor the pace of work in this behalf. The Chief Secretary has also impressed (August 1998) upon the Administrative Secretaries to ensure holding of departmental Audit Committee meetings on quarterly basis and inform the Finance Department of the outcome of such meetings.

We observed that the Administrative Secretary had not ensured holding of quarterly departmental audit committee meetings during the year 2009-10. The details of the audit committee meetings held during the year 2009-10 and the paragraphs settled are mentioned below:

Head of revenue	Number of meetings held	Number of paragraphs settled (out of total paragraphs)	Amount (` in crore) (out of total amount)
Taxes on sales, trade etc./VAT	3	235 (1,288)	23.72 (497.36)
State excise	5	84 (148)	19.73 (56.23)
Taxes on vehicles	4	147 (363)	3.18 (7.25)
Total	**12**	**466 (1,799)**	**46.63 (560.84)**

Out of 971 drawing and disbursing officers (DDOs) dealing with 19 major heads of tax and non-tax receipts, the meetings of audit committee were convened in respect of 12 DDOs dealing with three tax heads under Administrative Departments of Excise and Taxation and Transport during the year 2009-10. Thus, these departmental Audit Committees are not functioning effectively due to non-taking any initiative by most of the Government departments, and to which the disposal/settlement of the pending audit paragraphs/objections through these meetings is very slow.

The Government may consider ensuring the periodical meetings of the audit committees to be convened by all the Administrative Secretaries for effective progress of settlement of paragraphs and IRs. The monitoring at the apex level may be done by prescribing periodical return.

1.2.3. Non-production of records to Audit for scrutiny

The programme of local audit of VAT receipts in the offices of Deputy Excise and Taxation Commissioner (DETC) 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, 25 VAT assessment cases pertaining to three DETCs were not made available to audit. Thus, VAT assessment cases involving revenue of ` 16.26 crore could not be checked in audit. Break-up of these cases are given below:-

Name of DETC	Year in which it was to be audited	Number of assessment cases not audited	Number of cases in which revenue involved could be ascertained	Revenue involved (` in crore)
Faridabad (East)	2009-10	18	18	4.71
Gurgaon (East)	2009-10	5	5	11.08
Gurgaon (West)	2009-10	2	2	0.47
	Total	**25**	**25**	**16.26**

1.2.4 Response of the departments to the draft audit paragraphs

The Finance Department had issued directions to all the departments on 5 January 1982 to send their response to the draft audit paragraphs proposed for inclusion in the Audit Report within six weeks. The draft paragraphs are forwarded by the PAG to the Secretaries of the departments concerned through demi-official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the departments is invariably indicated at the end of each paragraph included in the Audit Report.

Forty one draft paragraphs (clubbed in 19 paragraphs) and two reviews included in the Audit Report (Revenue Receipts) for the year ended 31 March 2010 were forwarded to the Secretaries of the departments concerned during January to July 2010 through demi-official letters. However, reply was received only in one case.

1.2.5 Follow up on Audit Reports-summarised position

According to the instructions issued by the Finance Department in October 1995 and reiterated in July 2001, the administrative departments were to initiate suo moto positive and concrete action on all paragraphs and reviews

featuring in the Audit Report (Revenue Receipts) regardless of whether the cases were taken up for examination by the PAC or not. They were also to furnish detailed notes, duly vetted by Audit indicating the remedial action taken or proposed to be taken by them within three months of the presentation of the Audit Reports to the Legislature.

The position of paragraphs which have appeared in the Audit Reports and those pending discussion as on 30 June 2010 is mentioned in **Annexure I**. One hundred twenty one paragraphs pertaining to the period 2004-05 to 2008-09 were pending for discussion by the PAC. The Administrative Departments had failed to submit action taken notes (ATNs) in respect of 72 (out of 121) paragraphs within three months from the date of presentation[4] of the Audit Reports to the Legislature.

Further, the response of the Administrative Departments towards the recommendations of the PAC was not encouraging as 573 recommendations pertaining to the period 1977-78 to 2003-04 were still pending for want of final action by the concerned departments **(Annexure II)**.

1.2.6 Compliance with the earlier Audit Reports

During the years between 2004-05 and 2008-09, the departments/Government accepted audit observations involving revenue of ` 959.07 crore out of which an amount of ` 326.26 crore was recovered till 31 March 2010 as mentioned below:

(` in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2004-05	367.24	362.94	2.53
2005-06	200.60	98.17	6.22
2006-07	407.54	392.67	315.23
2007-08	122.75	29.65	1.60
2008-09	82.74	75.64	0.68
Total	**1,180.87**	**959.07**	**326.26**

The recovery in respect of the accepted cases was 34 *per cent*.

The Government may advise the concerned departments to take necessary steps for speedy recovery.

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 IRs/Audit Reports by the departments/Government, the action taken on the paragraphs and reviews included in the Audit Reports of the last 10 years in respect of Excise and Taxation Department (Sales Tax/VAT receipts) is evaluated and included in this Audit Report.

[4] 2004-05: December 2005; 2005-06: March 2007; 2006-07: March 2008; 2007-08: February 2009, and 2008-09: 16 March 2010.

The succeeding paragraphs 1.3.1 to 1.3.2.2 discuss the performance of the Excise and Taxation Department (Sales Tax/VAT) to deal with the cases detected in the course of local audit conducted during the last 10 years and also the cases included in the Audit Reports for the years 1999-2000 to 2008-09.

1.3.1 Position of Inspection Reports

The IRs incorporating irregularities detected during inspections of the transactions of tax and non-tax receipts (including verification of maintenance of records and accounting procedure) of the various offices of the Excise and Taxation Department are issued to the heads of the offices inspected/next higher authorities for taking prompt corrective action. The heads of offices/ department/Government are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly. They were also required to report compliance through initial reply to the PAG within six weeks from the date of issue of the IRs. Serious financial irregularities are also reported to the head of the department {Excise and Taxation Commissioner (ETC)} and Government through demi-official letter for examination and taking prompt action and offering comments thereon, if any, within six weeks from the date of issue of the advance para. In case of non-receipt of reply within six weeks, we have issued reminders after 50 days from the date of issue of the IRs and thereafter every month. We have also issued half-yearly position of the outstanding audit observations through demi-official letter to the Administrative Department and ETC.

The summarised position of IRs issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2010 are tabulated below.

(` in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para - graphs	Money value	IRs	Para - graphs	Money value	IRs	Para - graphs (Percentage to opening balances)	Money value	IRs	Para - graphs	Money value
Upto 2000-01	224	1,833	97.94	34	529	77.60	5	613 (33)	30.95	253	1,749	144.59
2001-02	253	1,749	144.59	28	349	31.64	Nil	303 (17)	6.73	281	1,795	169.50
2002-03	281	1,795	169.50	32	340	116.70	4	339 (19)	23.09	309	1,796	263.11
2003-04	309	1,796	263.11	27	342	276.37	4	345 (19)	56.43	332	1,793	483.05
2004-05	332	1,793	483.05	30	401	97.29	19	442 (25)	42.66	343	1,752	537.68
2005-06	343	1,752	537.68	31	395	205.12	27	345 (20)	30.34	347	1,802	712.46
2006-07	347	1,802	712.46	26	379	66.23	5	312 (17)	41.63	368	1,869	737.06
2007-08	368	1,869	737.06	28	354	64.67	51	608 (33)	117.52	345	1,615	684.21
2008-09	345	1,615	684.21	40	439	134.72	42	531 (33)	129.22	343	1,523	689.71
2009-10	343	1,523	689.71	27	344	84.89	141	659 (43)	304.01	229	1,208	470.59

The year-wise details of closing balance of IRs, paragraphs and amount involved is given in **Annexure-III**. Out of 1,208 audit observations involving

revenue of ` 470.59 crore in 229 IRs, 284 audit observations involving revenue of ` 46.15 crore (10 *per cent*) in 116 IRs were more than five years old.

We observed that despite issuing periodical reminders and convening of periodical meetings of the audit committee, there were large pendency of IRs/audit observations which are indicative of failure on the part of the heads of the offices/ETC and Administrative Department to initiate action to rectify the defects, omissions and irregularities pointed by the PAG in the IRs.

To ensure that action to recover the revenue dues does not become time barred, the Government may take suitable steps to ensure that:

- **an effective procedure exists for prompt and appropriate response to the audit observations;**
- **action is taken against officials/officers failing to take effective steps to get the audit observations settled at the earliest after getting Government revenue recovered or other action as per law; and**
- **action is taken to recover loss/outstanding demands in a time bound manner.**

1.3.2 Assurances given by the department/Government on the issues highlighted in the Audit Report

1.3.2.1 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the department and the amount recovered are mentioned below.

(` in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraph	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases
1999-2000	10	19.28	7	2.76	0.02	Not available
2000-01	6	5.43	6	5.04	0.02	Not available
2001-02	9	3.28	8	2.23	0.23	1.94
2002-03	15	19.38	14	18.58	0.57	18.01
2003-04	10	10.23	10	8.32	-	8.32
2004-05	7	1.92	7	1.64	-	0.96
2005-06	8	5.74	7	1.14	-	1.12
2006-07	7	6.54	7	6.54	0.17	4.52
2007-08	8	2.17	7	1.00	0.32	0.32
2008-09	11	5.48	11	5.11	0.05	0.07
Total	**91**	**79.45**	**84**	**52.36**	**1.38**	**35.26**

The recovery in respect of the accepted cases for the last ten years was only 67 *per cent.*

The Government may advise the concerned departments to take necessary steps for speedy recovery.

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

The draft performance reviews conducted by the PAG 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 issues highlighted in the reviews on the Excise and Taxation Department relating to Taxes on sales, trade etc./VAT featured in the Audit Reports including recommendations. The head of the department/Government had not intimated their acceptance or any action taken on the 24 recommendations **(Annexure-IV)** included in the seven Audit Reports for the years 2002-03 to 2008-09 for the assessments, levy and collection of sales tax/VAT as well as to avoid evasion of tax.

We observed that the Excise and Taxation Department/Government had sent their reply to the PAC relating to reviews included in the Audit Reports for the years 2002-03 to 2007-08 but they had not given any reply either regarding acceptance of these recommendations or any other comments thereon against the para on conclusion and recommendations of the Audit Reports for the years 2002-03 and 2003-04. They had not furnished replies to the PAC for the Audit Reports for the years 2004-05 to 2007-08. This indicates that the Excise and Taxation Department did not take any steps for the acceptance/ implementation of the recommendations nor intimate their comments thereon.

The Government may advise the Excise and Taxation Department to take suitable steps to ensure the compliance of the recommendations or give their comments, if any.

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 five years, features of the tax administration, audit coverage and its impact during past five years etc.

During the year 2009-10, out of 971 auditable units, 578 units were planned and audited during the year 2009-10 which constitutes 60 *per cent* of the total auditable units. The details of auditable units and units selected are shown in the **Annexure-V**.

Besides the compliance audit completed as mentioned above, two performance reviews namely 'Levy and collection of stamp duty and registration fee' and 'Receipts from guarantee fee' 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 578 units of sales tax/VAT, stamp duty and registration fee, state excise, motor vehicles, forest and other departmental offices conducted during the year 2009-10 revealed underassessments/short levy/loss of revenue in 6,331 cases aggregating ` 596.47 crore. During the course of the year, the concerned departments accepted underassessments and other deficiencies of ` 191.53 crore involved in 2,236 cases of which 2,155 cases involving revenue of ` 189.53 crore were pointed out in audit during 2009-10 and the rest in the earlier years. The departments collected ` 3.44 crore in 261 cases during 2009-10.

1.5.2 This Report

This Report contains 19 paragraphs and two performance reviews on 'Levy and collection of stamp duty and registration fee' and 'Receipts from guarantee fee' relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of ` 346.97 crore. The departments/Government have accepted audit observations involving ` 72.76 crore out of which ` 3.42 crore has been recovered. The replies in the remaining cases have not been received (August 2010). These are discussed in succeeding chapter II to VI.

CHAPTER-II: SALES TAX/VALUE ADDED TAX

2.1 Tax administration

Assessments, levy and collection of value added tax (VAT) in Haryana are governed under the Haryana Value Added Tax Act, 2003 (HVAT Act) and rules framed thereunder. Excise and Taxation Commissioner (ETC) is the head of the Excise and Taxation Department for the administration of HVAT Act and Rules in Haryana. The Excise and Taxation Officers (ETOs) and Assistant Excise and Taxation Officers (AETOs) are responsible for registration of dealers, assessments, levy and collection of VAT. All the dealers registered under the Haryana General Sales Tax Act, 1973 (HGST Act) were liable to get registered under the HVAT Act. Every dealer whose gross turnover (GTO) exceeded ` five lakh were liable to get registered under the HVAT Act from the day following the day his GTO exceeded the taxable quantum. All dealers registered under the HVAT Act were assigned Taxpayers Identification Number (TIN). Under the HVAT Act, tax was levied at the prescribed rates at every point of sale after allowing deduction towards tax paid at the previous point {input tax credit (ITC)}. Assessments were made after scrutiny of books of accounts in selected cases under the Act.

2.2 Trend of receipts

Actual receipts from Taxes on sales, trade etc./VAT during the last five years 2005-06 to 2009-10 along with the total tax/non-tax receipts during the same period is exhibited in the following table:

(` in crore)

Year	Budget estimates	Actual VAT receipts	Variation excess (+)/ shortfall (-)	Percentage of variation (Col. 4 to Col. 2)	Total tax/non-tax receipts of the State	Percentage of actual VAT receipts vis-à-vis total tax / non-tax receipts (Col. 3 to Col. 6)
1	2	3	4	5	6	7
2005-06	5,490.00	5,604.45	(+) 114.45	(+) 02	11,537.21	49
2006-07	6,390.00	6,853.24	(+) 463.24	(+) 07	15,518.52	44
2007-08	7,832.00	7,720.98	(-) 111.02	(-) 01	16,714.90	46
2008-09	9,785.00	8,154.73	(-) 1,630.27	(-) 17	14,893.73	55
2009-10	10,740.00	9,032.37	(-) 1,707.63	(-) 16	15,960.90	57

Source: State Budget and Finance accounts.

The decrease in revenue receipts (16 *per cent*) in 2009-10 was mainly due to less collection from VAT on account of reduction of rates of tax and worldwide recession.

2.3 Analysis of arrears of revenue

The arrears of sales tax/VAT revenue as on 31 March 2010 amounted to ` 2,724.08 crore of which ` 575.12 crore (21 *per cent*) 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 VAT arrears	Amount collected during the year	Closing balance of VAT arrears	Actual VAT receipts	Percentage (Col. 3 to Col. 2)	Percentage of arrears outstanding to VAT receipts (Col. 4 to Col. 5)
1	2	3	4	5	6	7
2005-06	909.04	72.77	1,142.15	5,604.45	8	20
2006-07	1,142.15	71.93	1,268.50	6,853.24	6	19
2007-08	1,268.50	127.54	1,591.87	7,720.98	10	21
2008-09	1,591.87	155.41	1,955.87	8,154.73	10	24
2009-10	1,955.87	164.08	2,724.08	9,032.37	8	30

We observed that arrears of revenue had increased from ` 909.04 crore at the beginning of the year 2005-06 to ` 2,724.08 crore (200 *per cent*) at the end of the year 2009-10. The percentage of realisation of arrears to the arrears at the beginning of the year ranged between six and 10 *per cent* during the years 2005-06 to 2009-10. Though the VAT receipts increased by 61 *per cent* (from ` 5,604.45 crore in 2005-06 to ` 9,032.37 crore in 2009-10), the arrears of VAT revenue increased by 200 *per cent* (from ` 909.04 crore as on 1 April 2005 to ` 2,724.08 crore as on 31 March 2010).

The Government may advise the Department to take effective steps for collecting the arrears promptly to augment Government revenue.

2.4 Assessee profile

10,994 dealers were registered during the year 2009-10. There were 988 large taxpayers and 74,757 small dealers in the State as on 31 March 2010. 1,60,755 dealers registered as on 31 March 2009 were required to file their periodical returns. The information relating to number of returns received and action taken by the department to issue notices to the remaining dealers who failed to furnish returns is being ascertained from the department and will be analysed.

2.5 Cost of VAT per assessee

The number of assessees and sales tax/VAT receipts during the period 2005-06 to 2009-10 as furnished by the Excise and Taxation Department are

mentioned below:

(` in lakh)

Year	Number of assessees	Sales tax/VAT receipts	Average collection of VAT per assessee
2005-06	1,38,096	4,31,076.20	3.12
2006-07	1,45,341	5,57,888.84	3.84
2007-08	1,52,352	6,05,931.44	3.98
2008-09	1,56,545	6,42,489.44	4.10
2009-10	1,61,927	7,53,065.60	4.65

We observed that the average collection of VAT per assessee increased from ` 3.12 lakh in 2005-06 to ` 4.65 lakh in 2009-10.

2.6 Arrears in assessments

The number of cases pending assessment at the beginning of the year, cases becoming due during the year, cases disposed during the year and number of cases pending at the end of each year during 2005-06 to 2009-10 as furnished by the Excise and Taxation Department in respect of taxes on sales, trade etc./ VAT are mentioned below:

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of cases finalised to total cases (Col. 5 to col. 4)
1	2	3	4	5	6	7
2005-06	2,22,769	1,63,789	3,86,558	1,86,761	1,99,797	48
2006-07	1,99,797	1,76,682	3,76,479	1,59,608	2,16,871	42
2007-08	2,16,871	1,81,128	3,97,999	1,75,124	2,22,875	44
2008-09	2,22,875	1,83,153	4,06,028	1,64,132	2,41,896	40
2009-10	2,41,896	2,34,839	4,76,735	1,89,476	2,87,259	40

We observed that the number of pending assessment cases had been increasing every year during the period 2005-06 to 2009-10 and the pending cases in respect of sales tax/VAT increased from 2,22,769 cases at the beginning of 2005-06 to 2,87,259 (29 *per cent*) at the end of 2009-10. The percentage of sales tax/VAT assessment cases finalised to total cases during the period 2005-06 to 2009-10 ranged between 40 to 48 *per cent*.

The Government may advise the Department to take necessary steps for early disposal of these pending assessment cases to augment Government revenue.

2.7 Cost of collection

The gross collection in respect of revenue receipts of Taxes on sales, trade etc./VAT, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2005-06 to 2009-10 along

with the relevant all India average percentage of expenditure of collection to gross collection for the relevant year are mentioned below.

(` in crore)

Year	Gross Collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average cost of collection
2005-06	5,604.45	36.86	0.65	0.91
2006-07	6,853.24	45.42	0.66	0.82
2007-08	7,720.98	50.64	0.66	0.83
2008-09	8,154.73	65.92	0.81	0.88
2009-10	9,032.37	78.48	0.87	-

Source: Finance Accounts.

2.8 Analysis of collection

The break-up of the total collection at pre-assessment stage and after regular assessments of sales tax/VAT cases for the year 2009-10 and the corresponding figures for the preceding four years as furnished by the Excise and Taxation Department are mentioned below:

(` in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Amount refunded	Net collection as per department	Net collection as per Finance Accounts	Percentage of collection at pre-assessment stage to net collection (column 2 to column 5)
1	2	3	4	5	6	7
2005-06	5,480.84	169.01	45.40	5,604.45	5,604.45	98
2006-07	6,263.05	644.42	54.23	6,853.24	6,853.24	91
2007-08	7,223.15	723.60	81.15	7,865.60[1]	7,720.98[1]	92
2008-09	8,132.08	528.42	101.34	8,559.16[1]	8,154.73[1]	95
2009-10	9,973.05	394.45	133.09	10,234.41[1]	9,032.37[1]	97

We observed that the percentage of tax collected before regular assessment decreased from 98 *per cent* in 2005-06 to 91 *per cent* in 2006-07 and had been increasing from 2007-08 to 2009-10. However, the department collected ` 2,358.51 crore[2] during the years 2004-05 to 2008-09, while tax due in the cases detected during test check of assessment cases conducted by audit

[1] There are differences of ` 144.62 crore, ` 404.43 crore and ` 1,202.04 crore in the departmental figures and the figures given in the Statement No. 11 – Detailed accounts of revenue by minor heads in the Finance Accounts of the Government for the years 2007-08, 2008-09 and 2009-10 respectively.

[2] Amount collected after regular assessments during 2004-05 was ` 293.06 crore.

during the period from 2004-05 to 2008-09 amounted to ` 1,161.99 crore[3]. **The high amount of leakage of revenue detected by audit only in test checked cases vis-à-vis the amount collected after regular assessments points towards a need for the Government to strengthen the tax administration. Besides, the refunds allowed during the years 2005-06 to 2009-10 also registered a consistent increase; during 2009-10, it reached ` 133.09 crore and during the same year 2009-10, the department collected ` 394.45 crore after regular assessments.**

2.9 Revenue impact of the Audit

2.9.1 Position of Inspection Reports

The performance of the Excise and Taxation Department to deal with the irregularities detected in the course of local audit conducted during the year 2008-09 and the corresponding figures for the preceding four years is tabulated below:

(` in crore)

Year	Units audited			Cases accepted		Recovery made during the year	
	Number	Number of cases objected	Amount	Number	Amount	Number	Amount
2004-05	40	735	140.61	125	91.31	66	0.68
2005-06	46	960	241.06	95	1.07	60	0.95
2006-07	43	974	395.96	147	1.84	88	0.83
2007-08	47	1,232	176.04	145	2.44	77	1.44
2008-09	46	863	208.32	106	8.48	61	0.81
Total	**222**	**4,764**	**1,161.99**	**618**	**105.14**	**352**	**4.71**

We observed that the recovery in respect of accepted cases during the years 2004-05 to 2008-09 was only four *per cent*.

2.9.2 Position of Audit Reports

During the last five years (including the current year's report), audit through its Audit Reports had pointed out non/short levy/realisation, underassessment/ loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ` 140.86 crore in 52 paragraphs. Of these, the Department/ Government had accepted audit observations in 50 paragraphs involving

[3] 2004-05: ` 140.61 crore; 2005-06: ` 241.06 crore; 2006-07: ` 395.96 crore; 2007-08: ` 176.04 crore and 2008-09: ` 208.32 crore.

` 46.38 crore and recovered ` 6.99 crore. The details are shown in the following table.

(` in crore)

Year of Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2004-05	7	1.92	7	1.64	4	0.96
2005-06	8	5.74	7	1.14	7	1.12
2006-07	7	6.54	7	6.54	3	4.52
2007-08	8	2.17	7	1.00	2	0.32
2008-09	11	5.48	11	5.11	2	0.07
2009-10	11	119.01	11	30.95	-	-
Total	**52**	**140.86**	**50**	**46.38**	**18**	**6.99**

We observed that the recovery in respect of accepted cases was only 15 *per cent*. The slow progress of recovery even in respect of accepted cases is indicative of failure on the part of the heads of offices/department to initiate action to recover the Government dues promptly.

We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.

2.10 Working of internal audit wing

The department stated (July 2010) that an internal audit system was set up by the Government for control and supervision of expenditure as well as receipts. The department had one Chief Accounts officer, four (against five sanctioned posts) Accounts Officers and 11 (against 14 sanctioned posts) Section Officers. There are 17 Section Officers in the districts level offices who conduct internal audit of assessment of sales tax/VAT cases, bills and cash books. Internal audit party had conducted audit of 13 out of 63 auditable units (21 *per cent*) of revenue receipts and expenditure during the year 2009-10, but the Chief Accounts officer failed to furnish the details of objections raised and settled along with planning of auditable units etc. Thus, the monitoring at the apex level was ineffective and the coverage of internal audit was also not adequate. The irregularities discussed in audit paragraphs 2.13 to 2.15 are indicators of ineffective internal control mechanism as none of these irregularities pointed out by us were detected by the departmental authorities/internal audit parties. It is, therefore, necessary to strengthen the internal audit cell to ensure timely completion of audit of assessment cases and timely detection and correction of errors in levy and collection of sales tax/VAT revenue.

The Government may strengthen the internal audit wing to ensure timely detection and correction of errors in assessment, levy and collection of VAT and refund cases.

2.11 Results of audit

Test check of the records relating to assessments and refunds of sales tax/VAT in Excise and Taxation Department, conducted during the year 2009-10, revealed irregularities in assessments, levy and collection of tax involving ` 217.05 crore in 667 cases, which broadly fall under the following categories:

(` in crore)

Sr. No.	Category	Number of cases	Amount
1.	Underassessment of turnover under Central Sales Tax Act	66	102.41
2.	Application of incorrect rates of tax	71	9.42
3.	Non-levy of penalty	39	20.46
4.	Incorrect computation of turnover	23	1.33
5.	Non-levy of interest	10	1.23
6.	Other irregularities	458	82.20
Total		**667**	**217.05**

During the year 2009-10, the department accepted underassessment and other deficiencies of ` 32.59 crore involved in 102 cases of which 87 cases involving ` 32.30 crore had been pointed out during 2009-10 and the remaining in the earlier years. The department recovered ` 39.05 lakh in 36 cases during the year 2009-10, of which 22 cases involving ` 15.80 lakh related to the year 2009-10 and balance to the earlier years.

A few illustrative cases involving ` 119.01 crore are mentioned in the following paragraphs.

2.12 Audit observations

During scrutiny of the assessment records of sales tax/VAT in Excise and Taxation Department, we noticed the cases of non-observance of provisions of Acts/Rules, non/short levy of tax/penalty/interest, incorrect determination of classification/turnover and other cases, as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of Assessing Authorities (AAs) are pointed out in audit repeatedly, but not only the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to improve the internal control system including strengthening of internal audit.

2.13 Non-observance of the provisions of the Acts/Rules

The HGST Act/HVAT Act/Central Sales Tax Act, 1956 (CST Act) and Rules made thereunder provide for:-

(i) levy of tax/penalty at the prescribed rate;

(ii) levy of lump sum tax on works contract at prescribed rates;

(iii) exemption from payment of tax to new industries under the HGST Act, who opt for deferment of tax under the HVAT Act on fulfilment of prescribed conditions;

(iv) allowance of ITC as admissible; and

(v) Section 14 (6) of the HVAT Act inter alia lays down that if any dealer fails to make payment of tax, he shall be liable to pay, in addition to the tax payable by him, simple interest at one and half per cent (one per cent with effect from 11 October 2007) per month if the payment is made within ninety days, and at three per cent per month (two per cent with effect from 11 October 2007) if the default continues beyond ninety days for the whole period, from the last date specified for the payment of tax to the date he makes the payment.

We noticed that the AAs, while finalising the assessments, did not observe the provisions of the rules in the cases mentioned in the paragraphs 2.13.1 to 2.13.6. This resulted in non/short levy/non-realisation of tax/interest/ penalty of ` 22.38 crore.

2.13.1 Underassessment of value added tax on

2.13.1.1 Leased machinery and equipments

Under Section 7 (1) of the HVAT Act, machinery and equipments being unclassified goods were taxable at the rate of 10 *per cent* upto 30 June 2005. The State Government clarified to a dealer[4] (December 2006) that the rate applicable for the transfer of right to use goods should be same as the rate applicable for the sale of the goods.

[4] M/s Hewlett Packard Financial Services India (Private) Limited, Gurgaon.

During test check of the records of the office of Deputy Excise and Taxation Commissioner (Sales Tax) {DETC (ST)}, Faridabad (West) in June 2008, we noticed that the dealer bank had leased out machinery and equipments as per lease agreements in February 1999 (prior to introduction of HVAT Act). The dealer bank received lease rent amounting to ` 87.91 crore during the years 2003-04 and 2004-05. The AA, while finalising the assessments in March and September 2007, levied tax at the rate of four *per cent* instead of the correct rate of 10 *per cent*. This resulted in underassessment of VAT of ` 5.27 crore. Additionally, interest amounting to ` 4.93 crore was also leviable under Section 14 (6) of HVAT Act.

After we pointed out these cases in June 2008, the AA stated (July 2008) that the tax had been charged correctly in view of schedule 'C' (serial number 3) treating the leasing of machinery as intangible asset. The reply of the AA is not correct as the provisions quoted were applicable with effect from 1 July 2005 and machinery is not an intangible asset. Later on DETC-cum-Revisional Authority (RA), Faridabad (West) admitted the audit observations and rectified the assessment order for the year 2003-04 but levied tax at the rate of four *per cent* after accepting forms VAT-D1 for ` 44.07 crore submitted by the dealer. The AA had raised (March 2007) demand of interest of ` 4.91 lakh for late deposit of tax along with the returns, but the RA refunded the interest of ` 4.91 lakh, which was not correct. The ETO-cum-AA, Faridabad (West) also rectified the assessment order for the year 2004-05 on the same analogy and accepted forms VAT-D1 for ` 43.85 crore. The action taken by the RA and AA to levy concessional rate of tax after accepting forms VAT-D1 was not in order as VAT-D1 is applicable when actual sale (transfer) of goods take place and not in case of deemed sale (lease rent). It is also added that in the instant case the transfer of machinery had already taken place in February 1999 i.e prior to introduction of the HVAT Act. We have not received final reply (August 2010).

2.13.1.2 Pre owned cars

As per notification issued in April 2003 under Section 7 (1) of the HVAT Act (serial number 42 of the list), motor vehicles, their parts and accessories were taxable at the rate of 12 *per cent* up to 30 June 2005.

During test check of the records of the offices of DETC (ST), Faridabad (East), Gurgaon (West) and Jagadhari between July 2007 and February 2010, we noticed that four dealers[5] dealing in sale and purchase of cars (old and new) purchased pre owned cars from private persons and registered dealers and sold 1,113 pre owned cars valued as ` 22.86 crore during the period between April 2003 and June 2005. The dealers paid lump sum tax of ` 40.19 lakh. The AAs finalised the assessments between March 2007 and March 2009 and levied lump sum rate of tax instead of the correct rate of tax of 12 *per cent.* This resulted in underassessment of tax of ` 2.34 crore. Additionally, interest amounting to ` 2.21 crore under Section 14 (6) of the HVAT Act was also leviable on short payment of tax between May 2004 and March 2009.

[5] Faridabad (East): 2, Gurgaon (West): 1 and Jagadhari: 1.

After we pointed out these cases between July 2007 and February 2010, Joint Excise and Taxation Commissioner (JETC)-cum-RA, Gurgaon and ETO, Faridabad (East) created additional demand of ` 3.34 lakh (against ` 55.24 lakh) and ` 7.48 lakh respectively in one case (each) of Gurgaon and Faridabad in June 2008 and July 2009. In respect of the remaining seven cases of four dealers, DETC (ST) and ETOs, Faridabad (East), Gurgaon (West) and Jagadhari stated that the AAs had levied lump sum rate of tax on pre owned cars rightly as per provisions of Schedule 'G' read with Section 45 of the Act. However, Schedule G is applicable only to the dealers who are the actual owners of the cars and not dealing in the business of sale/purchase of cars and was not applicable in the case of registered dealers dealing in sale/purchase of cars.

We pointed out the matter to the ETC, Excise and Taxation Department between December 2007 and February 2010, and in May 2010 for re-examination and for taking suitable action in the cases of paragraph 2.13.1.1. We also reported the matter to the Government in May 2010; we are yet to receive their reply (August 2010).

2.13.2 Short/non-levy of purchase tax and penalty due to misuse of VAT-D1

Under Section 7 (3) of the HVAT Act, where taxable goods are sold by one dealer to another dealer, tax is leviable at a lower rate (four *per cent*) if the purchasing dealer furnishes a declaration in form VAT-D1 certifying that the goods are meant for use in the manufacture of goods for sale. Further, if an authorised dealer after purchasing any goods fails to make use of the goods for the specified purpose, the AA may impose upon him, by way of penalty, under Section 7 (5) of the HVAT Act, a sum not exceeding one and a half times the tax which would have been levied additionally. However, no penalty would be imposed if the dealer voluntarily pays the tax which would have been levied additionally under Section 7 (1) (a) of the HVAT Act along with the returns for the period when he failed to make use of the goods purchased for the specified purpose.

2.13.2.1 During test check of the records of the offices of DETC (ST), Faridabad (West) and Faridabad (East) in September 2008 and August 2009, we noticed that two dealers purchased goods valued as ` 212.34 crore during the period between April 2004 and June 2005 at concessional rate of four *per cent* against declaration in form VAT-D1 for use in the manufacture of goods for sale. Out of which, these dealers transferred purchased goods (spare parts and components of motor vehicles) valued as ` 56.35 crore to their branches outside the State instead of using the same in manufacturing of the goods for sale and they failed to make payment of additional tax along with the returns. The AA, Faridabad (West) while finalising the assessment in March 2008 failed to levy tax additionally (normal tax leviable minus concessional tax levied) and penalty whereas AA Faridabad (East) levied (March 2009) only penalty of ` 7.69 lakh but failed to levy tax additionally. This resulted in non-levy of additional tax of ` 4.51 crore and maximum penalty of ` 6.68 crore.

After we pointed out these cases in September 2008 and August 2009, the AA, Faridabad (East) stated in November 2009 that there was no provision in the Act to levy additional tax where the goods purchased by the dealer against VAT-D1 forms were stock transferred. The only action prescribed under the Act is imposition of penalty which had been levied in the assessment order. The reply of AA Faridabad (East) is not in consonance with the provisions of the Act wherein the assessee was also required to pay tax along with the returns and failure to pay the same attracts the provisions for levy of penalty in addition to levy of tax. The reply furnished by the AA, Faridabad (West) was not relevant to the audit observation raised. We have not received further report on action taken in both the cases (August 2010).

2.13.2.2 During test check of the records of the office of DETC (ST), Panipat between June 2008 and January 2010, we noticed that 41 dealers purchased rags valued as ` 40.62 crore from within the State at concessional rate of tax against declaration in forms VAT-D1 and ` 6.21 crore from outside the State during the period between 2004-05 and 2006-07 for use in the manufacture of goods for sale. Out of which, these dealers sold rags valued as ` 18.64 crore to other dealers at concessional rate of tax and also failed to pay the tax which would have been levied additionally. The AAs, while finalising the assessments between April 2006 and February 2009, omitted to levy additional tax applicable to rags being unclassified goods. This resulted in non-levy of VAT of ` 1.23 crore besides maximum penalty of ` 1.84 crore.

After we pointed out these cases between June 2008 and January 2010, the Department stated between October 2008 and February 2010 that out of 23 cases, the AAs, while finalising 17 remand cases in March 2009, levied penalty of ` 98,000 in 14 cases of which ` 5,000 were recovered in one case in May 2009 and issued notices in six cases for taking suo motu action. Out of 18 cases, the ETO, Panipat had sent three cases to the DETC-cum-RA in January 2010 for taking suo motu action. We have not received report on recovery and final reply in the remaining cases (August 2010).

We pointed out the matter to the ETC, Excise and Taxation Department between December 2008 and February 2010 and reported to the Government between March and May 2010; we are yet to receive their reply (August 2010).

2.13.3 Short levy of lump sum tax on works contract

Under the HVAT Act and the rules framed thereunder, a contractor liable to pay tax may, in respect of a works contract awarded to him for execution in the State, pay in lieu of tax payable by him under the Act on the transfer of property (whether as goods or in some other form) involved in the execution of works contract, a lump sum tax calculated at four *per cent* of the total valuable consideration receivable for the execution of the contract.

During test check of the records of the offices of DETC (ST), Faridabad (East) and Panchkula between December 2007 and April 2008, we noticed that four contractors, who had opted for lump sum payment of tax, received payment of ` 16.54 crore for execution of works contracts during the period between April 2003 and March 2006. The AAs, while finalising the

assessments between May 2006 and May 2007, levied tax at the rate of two *per cent* instead of correct rate of four *per cent* which resulted in short levy of tax of ` 33.10 lakh. Additionally, interest amounting to ` 30.46 lakh under Section 14 (6) of the HVAT Act was also leviable on default in tax demand for the period between May 2004 and May 2007.

After we pointed out these cases between December 2007 and April 2008, the DETC (ST), Panchkula created additional demands of ` 5.03 lakh in March 2009. DETC (ST), Faridabad (East) stated between December 2009 and January 2010 that the cases had been sent to DETC-cum-RA Faridabad for taking suo motu action in June and August 2008. We have not received report on recovery and final reply in respect of Faridabad cases including action taken to levy of interest (August 2010).

We pointed out the matter to the ETC, Excise and Taxation Department in April and June 2008 and reported to the Government in February 2010; we are yet to receive their reply (August 2010).

2.13.4 Underassessment of tax due to allowing of excess benefit of tax deferment

Under Section 61 (2) (d) (iii) of the HVAT Act, an industrial unit availing the benefit of deferment of payment of tax, whether by change over under the provisions of the Act or otherwise, may, in lieu of making payment of the deferred tax after five years, pay half the amount of the deferred tax upfront along with the returns and on making payment in this manner, the tax due according to the returns shall be deemed to have been paid in full. If the tax calculated is more than the input tax, the difference of the two shall be the tax payable.

2.13.4.1 During test check of the records of the office of the DETC (ST), Panipat in November 2009, we noticed that a dealer, availing the benefit of exemption (changed over to deferment scheme under HVAT Act) from payment of tax of ` 9.47 crore for the period 25 September 1999 to 24 September 2008, had opted to pay 50 *per cent* of the tax in lieu of deferment of payment of tax under the HVAT Act/Rules. The assessee had made sale of goods valued as ` 37.11 crore involving tax of ` 1.48 crore during the year 2005-06. After adjusting ITC of ` 35.91 lakh, the balance tax payable was ` 1.12 crore. The dealer was entitled to concession of 50 *per cent* of deferred tax amounting to ` 56.27 lakh. The AA, while finalising the assessment in March 2009, allowed 50 *per cent* of total tax liability i.e. ` 74.22 lakh instead of admissible amount of ` 56.27 lakh. This resulted in excess deferment of tax of ` 17.95 lakh. Additionally, interest amounting to ` 17.95 lakh under Section 14 (6) of the HVAT Act was also leviable for the period from November 2005 to March 2009.

After we pointed out the case in November 2009, the ETO, Panipat stated in January 2010 that the case was being re-examined and final reply would be sent in due course. We have not received further progress (August 2010).

2.13.4.2 During test check of the records of the office of the ETO, Bahadurgarh in July 2007, we noticed that a dealer, availing the benefit of capital subsidy of ` 1.73 crore for the period 1 April 2003 to 4 May 2006, had

opted to pay 50 *per cent* of the tax in lieu of deferment of payment of tax under the HVAT Act/Rules. The assessee had made sale of goods valued as ` 18.88 crore involving tax of ` 75.52 lakh during the year 2003-04. After adjusting ITC of ` 17.41 lakh, the balance tax payable was ` 58.11 lakh. The dealer was entitled to deferment of 50 *per cent* of deferred tax amounting to ` 29.06 lakh. The AA, while finalising the assessment in November 2006, allowed 50 *per cent* of total tax liability i.e. ` 39.86 lakh instead of admissible amount of ` 29.06 lakh. This resulted in excess deferment of tax of ` 10.80 lakh. Additionally, interest amounting to ` 10.06 lakh under Section 14 (6) of the HVAT Act was also leviable for the period from November 2003 to November 2006.

After we pointed out the case in July 2007, the DETC, Jhajjar admitted the audit observation and stated in October 2009 and June 2010 that the JETC (Range)-cum-RA, Gurgaon had created additional demand of ` 22.15 lakh {Tax: ` 8.17 lakh (after adjusting recovery of ` 2.63 lakh in March 2007); interest: ` 13.98 lakh (interest calculated upto 31 March 2008)} under HVAT/CST Act in April 2008. Further ETO, Bahadurgarh stated in February 2010 that no recovery had been made. We have not received any report on recovery (August 2010).

We pointed out the matter to the ETC, Excise and Taxation Department in September 2007 and February 2010 and reported to the Government in March 2010; we are yet to receive their reply (August 2010).

2.13.5 Underassessment of value added tax due to application of incorrect rate

Under Section 7 of the HVAT Act, VAT on goods sold is leviable at the specified rates.

During test check of the records of the offices of DETC (ST), Ambala Cantonment, Faridabad (West) and Gurgaon (West) between September 2008 and January 2010, we noticed that the AAs, while finalising the assessments between February 2008 and March 2009, levied tax at the lower rates instead of the correct rates leviable. Application of incorrect rate of tax resulted in underassessment of VAT of ` 30.32 lakh and interest of ` 29.65 lakh, leviable under Section 14 (6) of the HVAT Act as mentioned below:

Name of the DETC	Year/date of assessment	Description of goods sold (Number of dealers)	Value	Tax leviable	Tax levied	Tax short levied (6-7)	Interest leviable
			(` in crore)	(` in lakh)			
(1)	(2)	(4)	(5)	(6)	(7)	(8)	(9)
Ambala Cantonment	2005-06 8 October 2008	Rooh Afza (1)	3.10	37.18 (12)	30.98 (10)	6.20	6.20
Remarks: The AA, Ambala Cantonment had sent the case to the RA for taking suo motu action in December 2009.							

Name of the DETC	Year/date of assessment	Description of goods sold (Number of dealers)	Value	Tax leviable	Tax levied	Tax short levied (6-7)	Interest leviable
			(` in crore)	(` in lakh)			
(1)	(2)	(4)	(5)	(6)	(7)	(8)	(9)
Ambala Cantonment	2005-06 20 May 2008	Pressure Cookers (1)	0.37	4.49 (12)	1.50 (4)	2.99	2.83
Remarks: The AA, Ambala Cantonment had sent the case to the RA for taking suo motu action in December 2009.							
Ambala Cantonment	2005-06 27 February 2009 and 18 March 2009	Medicines (2)	0.94	9.44 (10)	3.78 (4)	5.66	5.66
Remarks: The AA, Ambala Cantonment had sent the case to the RA for taking suo motu action in January 2010.							
Ambala Cantonment	2005-06 25 June 2008	Tyres and Tubes (1)	1.76	14.04 (8)	7.02 (4)	7.02	6.96
Remarks: The AA, Ambala Cantonment stated in January 2010 that the case had been sent to the RA for taking suo motu action.							
Gurgaon (West)	2004-05 27 February 2008 and 2005-06 17 March 2009	Tyres and Tubes (1)	0.61	4.89 (8)	2.44 (4)	2.45	2.44
Remarks: The DETC, Gurgaon (West) stated in February 2010 that VAT on tyres and tubes for cycles sold by the dealer during April 2004 to June 2005 was correctly leviable at four *per cent*. The reply of DETC is incorrect as these rates were applicable with effect from 1 July 2005 and tax was leviable at eight *per cent* from 8 July 2003 to 30 June 2005.							
Faridabad (West)	2004-05 24 March 2008 and 2005-06 21 March 2009	Motor vehicle parts (1)	3.00	36.01 (12)	30.01 (10)	6.00	5.56
Remarks: The ETO, Faridabad (West) had sent the cases to RA for taking suo motu action in December 2009.							
Total			**9.78**	**106.05**	**75.73**	**30.32**	**29.65**

We pointed out the matter to the ETC, Excise and Taxation Department between September 2009 and February 2010 and reported to the Government in March and May 2010; we are yet to receive their reply (August 2010).

2.13.6 Inadmissible allowing of input tax credit

Under Section 8 (1) of the HVAT Act, input tax in respect of any goods purchased by a dealer shall be the amount of tax paid to the State on the sale of such goods to him. Under entry 31 of Schedule 'B' appended to the HVAT Act, Indian made foreign liquor [IMFL] (on which State excise duty has been paid) except when sold by a L-4/L-5 or L-12C licensee[4] is exempted from payment of tax. Thus, ITC on purchase of IMFL/beer is not admissible to these license holders since the assessee has not paid any VAT.

[4] L-4 license issued for retail vend of foreign liquor in a restaurant; L -5 license issued for retail vend of foreign liquor in a bar attached to a restaurant and L-12 license issued for retail vend of foreign liquor at a club.

During test check of the records of the DETC (ST), Rohtak in July 2008, we noticed that a dealer, holding L-4/L-5 license under the Haryana Liquor License Rules, 1970, purchased IMFL and beer valued as ` 43.14 lakh (2003-04: ` 21.14 lakh; 2004-05: ` 22 lakh) without payment of VAT and sold it after charging VAT. The AA, while finalising the assessments for the year 2003-04 and 2004-05 in November 2006 and March 2008, allowed ITC of ` 8.63 lakh though no ITC was admissible on purchases of IMFL and beer. This resulted in short levy of tax of ` 8.63 lakh.

After we pointed out these cases in July 2008, DETC (ST) Rohtak admitted the audit observation and stated in September 2009 and June 2010 that the AA disallowed ITC of ` 8.63 lakh by rectifying the assessments for the years 2003-04 and 2004-05 in March 2009 and created additional demand of ` 8.63 lakh. We have not received further report on recovery (August 2010).

We pointed out the matter to the ETC, Excise and Taxation Department in October 2008 and reported to the Government in February 2010; we are yet to receive their reply (August 2010).

2.14 Incorrect determination of classification/turnover

The HVAT Act, CST Act and Rules framed thereunder provide for:-

(i) disclosure of actual turnover by the dealer in the returns;

(ii) levy of tax/interest/penalty at the prescribed rate;

(iii) accurate determination of classification of goods by the AAs at the time of assessment; and

(iv) accurate determination of turnover at the time of assessment.

We noticed that the AAs, while finalising the assessments, in the cases mentioned in the paragraphs 2.14.1 to 2.14.3, did not observe the provisions of the Act. This resulted in non/short levy/non-realisation of tax/interest/ penalty of ` 94.56 crore.

2.14.1 Incorrect deductions of transit sales

Under Section 6 (2) of the CST Act, where a sale of any goods in the course of inter State trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods to a dealer shall be exempt from tax, provided the dealer furnishes a certificate in prescribed form E-I or E-II obtained from selling dealer(s) and a declaration in form 'C' obtained from purchasing dealer(s). Thus, the contract of supply of goods must come into existence after commencement and before termination of inter-State movement of goods. Further Section 38 of HVAT Act read with Section 9 (2) of CST Act provides for levy of penalty for filing/claiming incorrect returns/ benefit of exempted sale, a sum equal to three times the tax which would have been avoided had such account, return, document or information, as the case

may be, been accepted as true and correct.

2.14.1.1 During test check of the records of the office of DETC (ST), Panipat between May 2008 and January 2010, we noticed that three dealers of Panipat entered into agreements for supply of materials with Haryana Vidyut Prasaran Nigam Limited Panchkula, Haryana Power Generation Corporation Limited Panchkula and Indian Oil Corporation Limited, Panipat. The dealers (contractors) after purchasing the materials from outside the State supplied the same worth ` 510.25 crore between April 2003 and March 2008 directly to the site of works through their accounts. As the supply of materials was done within the State, the sale transactions were to be taxed under the provisions of the HVAT Act. Inspite of this, the dealers claimed benefit of exempted sales, under Section 6 (2) of the CST Act by furnishing E-I, E-II and 'C' forms, which was also allowed by the AAs while finalising assessments in these cases between October 2006 and March 2009. Thus, the benefit claimed/allowed was neither justified nor correct. This resulted in underassessment of VAT of ` 20.41 crore. Additionally, penalty of ` 61.23 crore was also not levied.

After we pointed out these cases between May 2008 and January 2010, ETOs, Panipat had sent six cases of dealers involving tax effect of ` 12.83 crore to the RA for taking suo motu action in October 2008 and May 2010. ETO Panipat did not admit audit observation in the case of a dealer for the years 2004-05 and 2005-06 stating that deductions of transit sales were rightly allowed against production of E-I and 'C' forms since there were vital evidence of endorsement of title to goods in transit and exempted from tax under Section 3 (b) of the CST Act. The reply is contrary to the provisions of the Act as the sales were liable to be taxed under HVAT Act. We have not received further report on action taken in these cases (August 2010).

2.14.1.2 During test check of the records of the office of the DETC (ST), Ambala Cantonment in December 2008/January 2009, we noticed that a dealer, dealing in sale/purchase of goods (papers), received supply orders from various dealers within and outside the State. The dealer had placed the supply orders to the paper mills outside the State during the year 2004-05 for the supply of goods with the direction to supply the goods valued as ` 4.59 crore direct to the purchasing dealers (local sales: ` 39.92 lakh; outside the State: ` 4.19 crore) through his account. As the supply of the goods was done within and outside the State, the sale transactions were to be taxed under the provisions of the HVAT Act and CST Act. Inspite of this, the dealer claimed benefit of exempted sales under Section 6 (2) of the CST Act by furnishing E-I and 'C' forms. The AA, while finalising the assessment and rectification order in March and July 2008, allowed the deductions of ` 4.59 crore treating it as transit sales against E-I and 'C' forms. As per dealer's statement dated 5 December 2008 available on the record at the time of audit and duly seen by the AA, the dealer collected the orders from various dealers and then sent the orders to paper mills for supply of papers directly to the purchasing dealers through his account. Thus, the sales, being pre determined sales, were not exempted from tax. Failure on the part of the AA to disallow deductions at the time of assessments in March and July 2008 and to reassess the case on receipt of dealer's statement in December 2008, confirming the fact of pre determined sales resulted in underassessment of tax of ` 20.75 lakh. Additionally, penalty

of ` 62.24 lakh was also leviable.

After we pointed out the case in December 2008/January 2009, the ETO, Ambala Cantonment sent the case to the DETC-cum-RA, Ambala Cantonment for taking suo motu action. The RA, in turn, vacated (January 2010) the notice for suo motu action on the plea/grounds that the dealer received the supply orders during movement of goods from one State to another. Further, there was nothing on assessment records which could prove pre determination of the sales made during the course of movement of goods as prescribed under Section 3 (b) of the CST Act. Since the dealer's statement available on record confirmed the pre determined sales, the action of the RA was not factually correct.

We pointed out the matter to the ETC, Excise and Taxation Department in December 2008 and February 2010 and reported to the Government in May and July 2010; we are yet to receive their reply (August 2010).

2.14.2 Non-levy of tax on sale of HDPE fabrics

Under the HVAT Act, High Density Polyethylene (HDPE) fabrics (plastic goods), being non-specified item in any schedule, are leviable to tax at the general rate of 12.5 *per cent* with effect from 1 July 2005. The State Government clarified in December 2009 that HDPE fabrics are unclassified goods, not covered under Schedule 'C'/Schedule 'B' of HVAT Act, and liable to be taxed at 12.5 *per cent* with effect from 1 July 2005. Under the CST Act, tax on inter State sales of goods (other than declared goods) shall be calculated at the rate of 10 *per cent* or at the rate applicable to the sale of such goods inside the State, whichever is higher, when such sales are not supported by form 'C'.

During test check of the records of the offices of DETC (ST), Jhajjar and Panipat between October 2009 and February 2010, we noticed that 16 cases of 12 dealers made sales of HDPE fabrics valued as ` 41.64 crore (HVAT: ` 22.81 crore; CST: ` 18.83 crore) during the period between 2005-06 and 2007-08 without payment of tax and without furnishing of declaration forms 'C'. The AAs, while finalising the assessments between May 2008 and March 2009, allowed the deductions of ` 41.64 crore treating it as tax free goods under Schedule B of HVAT Act. This resulted in non-levy of VAT amounting to ` 5.18 crore. Additionally, interest amounting to ` 4.01 crore was also leviable under Section 14 (6) of the HVAT Act.

After we pointed out these cases between October 2009 and February 2010, ETOs-cum-AAs stated in March 2009 that 11 cases of seven dealers had been sent to the RA, Panipat for taking suo motu action. We have not received final reply in the remaining five cases (August 2010).

We pointed out the matter to the ETC, Excise and Taxation Department in February and March 2010 and reported to the Government in March and July 2010; we are yet to receive their reply (August 2010).

2.14.3 Underassessment of tax due to inadmissible deduction from gross turnover

Under Section 2 (ze) (ii) of the HVAT Act, the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, where such transfer, is for cash, deferred payment or other valuable consideration and such transfer shall be deemed to be a sale of those goods by the person making the transfer. Under the provisions of HVAT Act, tax is leviable at every successive stage and deemed sale is also taxable in the hands of the contractor. A works contractor may either pay lump sum tax at the rate of four *per cent* of gross receipts of works contract or pay tax on value of goods involved in the execution of works contract. Thus, the deductions for labour and other service charges are to be made from total contract value for determining sale value of goods sold for levy of tax.

2.14.3.1 During test check of the records of the office of DETC (ST), Panipat in January 2010, we noticed that the dealer company (contractor) was engaged in building construction and did not opt for lump sum payment of tax. The contractee supplied material valued as ` 9.72 crore to the contractor for use in the execution of works and the cost was recovered from contractor through works bills during the years 2006-07 and 2007-08. The dealer had not claimed any ITC. The AA, while finalising the assessments in January and March 2009, omitted to levy tax on deemed sale of material valued as ` 9.72 crore and allowed other miscellaneous deduction of ` 3.47 crore from the GTO. This resulted in underassessment of tax of ` 1.65 crore due to inadmissible allowance of deductions aggregating to ` 13.19 crore. Additionally, interest amounting to ` 79.66 lakh under Section 14 (6) of the HVAT Act was also leviable for non-payment of tax for the period between November 2006 and March 2009.

After we pointed out these cases in January 2010, the ETO, Panipat stated in January 2010 that the matter was being examined. We have not received final reply (August 2010).

2.14.3.2 During test check of the records of the office of DETC (ST), Panipat in December 2009, we noticed that the dealer company (contractor), opted to pay lump sum tax in respect of one project only out of seven projects executed during 2005-06, received payment of ` 82.88 crore (normal contracts: ` 77.99 crore; lump sum contract: ` 4.89 crore) during the year 2005-06. The contractor claimed a deduction of ` 2.31 crore (out of normal contracts receipts of ` 77.99 crore) on account of contractee tax. The AA, while finalising the assessment in March 2009, allowed deduction of ` 2.31 crore from the GTO on account of contractee tax amount included in gross receipts not leviable to tax as it would be double taxation. As no such tax namely contractee tax was neither levied nor collected under any provision of the Act, the deduction allowed was, therefore, inadmissible. Inadmissible allowing of deduction of ` 2.31 crore resulted in underassessment of VAT of ` 17.41 lakh.

After we pointed out the case in December 2009, the AA stated in January 2010 that the case was being re-examined. We have not received final reply (August 2010).

2.14.3.3 During test check of the records of the office of DETC (ST), Panipat between October 2009 and January 2010, we noticed that four dealers executed job work of dyeing and embroideries and two dealers executed works contract. While finalising the assessments, the AAs did not levy or short levied tax on yarn and dyes and paints etc. passed on in execution of job work in five cases whereas in one case, the profit element (` 29.38 lakh) was not added in the material cost passed on in the execution of works contract. This resulted in non/short levy of tax of ` 16.08 lakh on the total material passed on valued as ` 6.48 crore. Additionally, interest of ` 11.73 lakh under Section 14 (6) of the Act was also leviable for the period August 2005 and March 2009.

After we pointed out these cases between October 2009 and January 2010, the AAs, Panipat stated in January 2010 that in four cases, the cases were being re-examined and results would be intimated later on and one case had been sent to the RA for taking suo motu action. In another case, the AA stated that the tax was correctly levied at the rate of four *per cent* as the dealer had shown sales against VAT-D1 forms. The reply of the ETO is not in consonance with the provisions of the Act as no further manufacturing activity was involved and the claim of concessional rate of tax allowed against VAT-D1 was incorrect. We have not received final reply in these cases (August 2010).

We pointed out the matter to the ETC, Excise and Taxation Department in February and March 2010 and reported to the Government in March and May 2010; we are yet to receive their reply (August 2010).

2.15 Evasion of tax due to misuse of declaration form 'F'

The AA, while finalising the assessments, in the cases mentioned in the paragraphs 2.15.1 to 2.15.2, did not cross verify declaration of forms 'F' with Tax Information Exchange System and also cross verification of all purchase/sale transactions totaling more than ` one lakh from a single VAT dealer in a year, as required in the ETC instructions dated 14 March 2006. This resulted in short levy of tax of ` 2.07 crore (including non-levy of penalty of ` 78.65 lakh) for evasion of tax.

2.15.1 Evasion of value added tax due to

2.15.1.1 Suppression of purchases and sales

Under Section 38 of the HVAT Act, if a dealer has maintained false or incorrect accounts or documents with a view to suppress his sales, purchases, or stock of goods, or has concealed any particulars or has furnished to or produced before any authority any account, return, document or information which is false or incorrect in any material particular, such authority may direct him to pay by way of penalty, in addition to the tax to which he is assessed or liable to be assessed, a sum thrice the amount of tax which would have been avoided had such account, return, document or information as the case may be, been accepted as true and correct. In order to prevent the tax evasion by fraudulent means, VAT provides for introduction of Tax Information Exchange System for proper tracing of inter-State sales transactions. Further, with a view to detect evasion of VAT by claiming fraudulent ITC by issuing

forged tax invoices or fictitious accounting of goods neither purchased nor sold etc., the ETC issued instructions in March 2006 for cross verification of all purchase/sale transactions totaling more than ` one lakh from a single VAT dealer in a year.

During test check of the records of the office of DETC (ST), Faridabad (West) in May and June 2008, we noticed that the department failed to implement comprehensive computerised system and the AAs had also not conducted cross verification of the transactions (even within their district jurisdiction) before finalising the assessments. We conducted cross verification of transactions of sales and purchases in May and June 2008 and noticed that four dealers sold goods valued as ` 8.07 crore to nine dealers of Faridabad and two dealers purchased goods valued as ` 40.14 lakh from two dealers of Faridabad during the year 2004-05. These dealers had not shown these sales and purchases transactions in their accounts as well as in the quarterly returns submitted to the department. Failure of the AAs to cross verify the transactions of sales and purchases before finalising the assessments between December 2006 and March 2008 inspite of ETC directions of March 2006, which consequently led to evasion of VAT amounting to ` 40.01 lakh. Additionally, penalty amounting to ` 1.20 crore was also leviable on suppression of sales and purchases.

After we pointed out these cases in May and June 2008, the ETO-cum-AA, Faridabad (West) re-assessed three cases and levied VAT and penalty amounting to ` 22 lakh and ` 65.99 lakh respectively in June 2009 and March 2010. ETO Faridabad stated (February and March 2010) that statutory notice was issued and served upon a dealer for re-assessment, and re-assessment proceedings were initiated in one case under Section 17 of HVAT Act. We have not received report on recovery in respect of three dealers and final reply in the remaining cases (August 2010).

2.15.1.2 Misuse of declaration form 'F'

Under Section 6A of the CST Act, transfer of goods from one State to another place of business in another State is exempt from levy of tax on production of 'F' forms and if any dealer fails to prove to the satisfaction of the AA the claim of transfer of goods, then the movement of such goods shall be deemed for all purposes of this Act to have been occasioned as a result of sale. The ETC issued instructions in March 2006 that in the cases of specific traders (selected for scrutiny) all transactions totaling more than ` one lakh from a single VAT dealer in a year should be cross verified to detect evasion of VAT.

During test check of the records of the office of DETC (ST), Kurukshetra in August 2009, we noticed that a dealer claimed deduction of consignment sale of goods valued as ` 1.36 crore against declaration in forms 'F' during the year 2005-06. The AA, while finalising the assessment in March 2009, allowed the deduction. We conducted cross verification of records with other States 'Tax Information Exchange System' in August 2009 and noticed that the dealer had suppressed his sales and submitted fake declaration forms to the tune of ` 34.77 lakh. Failure on the part of AA to scrutinise the claim and cross verify the transactions as required in the ETC instructions dated 14 March 2006 resulted in incorrect allowing of deduction which consequently

led to evasion of VAT of ` 2.78 lakh. Additionally, penalty of ` 8.34 lakh under Section 38 of the HVAT Act was also leviable for evasion of tax.

After we pointed out the case in August 2009, DETC (ST), Kurukshetra accepted the fact and stated in February and June 2010 that three forms 'F' had not been issued to the consignees of Delhi. The AA issued show cause notice to the dealer to recover the amount of tax and penalty leviable under the Act. We have not received any report on recovery of tax and penalty (August 2010).

We pointed out the matter to the ETC, Excise and Taxation Department in September and October 2009 and reported to the Government in March and May 2010; we are yet to receive their reply (August 2010).

2.15.2 Input tax credit allowed incorrectly

2.15.2.1 Under Section 8 (1) of the HVAT Act read with Rule 20 of HVAT Rules, 2003, claim of input tax can be allowed to the purchasing dealer only when the tax has been deposited by the selling dealer. With a view to detect evasion of VAT by claiming fraudulent ITC by issue of forged tax invoices or fictitious accounting of goods neither purchased nor sold etc., the ETC issued instructions in March 2006 for cross verification of all purchase transactions totaling more than ` one lakh from a single VAT dealer in a year. As per directions issued by the JETC (Range), Faridabad on 15 February 2008 and 8 August 2008, claim of ITC in respect of purchases made from 27 and 33 enlisted dealers respectively was admissible at nil rates for the years 2004-05 and 2005-06.

During test check of the records of the office of DETC (ST), Hisar in June 2009, we noticed that a dealer purchased iron and steel valued as ` 8.30 crore from seven dealers of Faridabad during the year 2005-06 and claimed ITC of ` 33.18 lakh. The AA, while finalising the assessment on 13 August 2008, allowed ITC of ` 33.18 lakh, despite the specific directions of JETC (Range) Faridabad issued on 8 March 2008 for allowing ITC at nil rate on purchases made from these dealers during the year 2005-06. Failure on the part of AA to get the purchases of these dealers verified as they were also declared dealers for allowing ITC at nil rate for the year 2004-05 and to take action as per directions of JETC (Range) resulted in non-raising of demand and incorrect allowing of ITC of ` 33.18 lakh.

After we pointed out the case in June 2009, the AA re-assessed the case by disallowing ITC on purchases of ` 8.35 crore made from these dealers and raised an additional demand of ` 33.38 lakh in November 2009. The AA had sent (June 2010) the case to the ETC for granting permission to auction the property of the dealer attached in February 2010. We have not received further report on recovery (August 2010).

2.15.2.2 Under Section 8 (1) to (3) of the HVAT Act read with Rule 20 of HVAT Rules, 2003, input tax in respect of any goods purchased by a VAT dealer shall be the amount of tax paid to the State on the sale of such goods to him. Further, a tax invoice and VAT-C4 certificate issued to a VAT dealer showing the tax charged to him on the sale of invoiced goods shall be sufficient proof of the tax paid on such goods for the purpose of allowing ITC.

During test check of the records of the office of DETC (ST), Ambala Cantonment in December 2009, we noticed that a dealer purchased goods valued as ` 14.27 crore from a dealer 'A' of Ambala Cantonment and claimed ITC of ` 1.75 crore during the year 2005-06. We conducted cross verification of the records and noticed that the selling dealer 'A' paid VAT amounting to ` 1.72 crore on goods sold as per Form VAT-C4 issued to the assessee. The AA, while finalising the assessment in February 2009, allowed ITC of ` 1.75 crore without verifying the amount of VAT actually paid. This resulted in allowing excess ITC of ` 2.68 lakh.

After we pointed out the case in December 2009, the AA had sent the case to DETC-cum-RA, Ambala Cantonment in January 2010 for taking suo motu action. We have not received further report (August 2010).

We pointed out the matter to the ETC, Excise and Taxation Department in August 2009 and February 2010 and reported to the Government in May 2010; we are yet to receive their reply (August 2010).

CHAPTER III: STAMP DUTY AND REGISTRATION FEE

3.1 Tax administration

Receipts from the stamp duty (SD) and registration fee (RF) in the State are regulated under the Indian Stamp Act, 1899 (IS Act), Indian Registration Act, 1908 (IR Act), Punjab Stamp Rules, 1934, as adopted by the Government of Haryana with suitable amendments and the Haryana Stamp (Prevention of Undervaluation of Instruments) Rules, 1978. SD is leviable on the execution of instruments as per Schedule I-A of the IS Act and RF is payable at the prescribed rates fixed by the State Government. At the Government level, the Financial Commissioner and Principal Secretary, Revenue Department, Haryana, Chandigarh (FCR) is responsible for the administration of the IS Act and IR Act and the rules framed thereunder relating to the registration of various documents. The overall control and superintendence over levy and collection of SD and RF vests with the Inspector General of Registration (IGR), Haryana, Chandigarh. The IGR is assisted by the 21 Deputy Commissioners (DCs), 67 teshildars and 46 naib teshildars acting as Registrars, Sub Registrars (SRs) and Joint Sub Registrars (JSRs) respectively.

3.2 Analysis of arrears of revenue

The department stated that the information relating to arrears of revenue was awaited from the office of the Divisional Commissioner. The Department had not supplied the details of arrears pending at the beginning of the year, arrears added and collected during the year and arrears pending at the end of the year due to non-availability of centralised database at the apex level. Thus, the department could not monitor and expedite the progress of recovery of arrears.

3.3 Cost of collection

The gross collection in respect of Stamps and Registration Fees, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2005-06 to 2009-10 along with the relevant all India average percentage of expenditure of collection to gross collection for the relevant year are mentioned below:

(` in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year
2005-06	1,339.73	5.63	0.42	2.87
2006-07	1,764.98	10.59	0.60	2.33
2007-08	1,763.28	12.04	0.68	2.09
2008-09	1,326.39	16.31	1.23	2.77
2009-10	1,293.56	13.72	1.06	-

Source: Finance Accounts.

3.4 Revenue impact of the Audit

3.4.1 Position of Inspection Reports

The performance of the Revenue Department to deal with the irregularities detected in the course of local audit conducted during the year 2008-09 and the corresponding figures for the preceding four years is tabulated below:

(` in crore)

Year	Units audited			Cases accepted		Recovery made during the year	
	Number	Number of cases	Amount	Number	Amount	Cases	Amount
2004-05	179	4,153	6.53	1,225	4.88	18	0.05
2005-06	179	8,349	22.10	5,878	13.19	108	0.07
2006-07	179	3,476	8.99	2,352	6.67	104	0.03
2007-08	180	85,543	44.43	2,136	6.04	240	0.07
2008-09	180	1,157	6.50	310	1.90	7	0.01
Total	**897**	**1,02,678**	**88.55**	**11,901**	**32.68**	**477**	**0.23**

We observed that the recovery in respect of accepted cases during the years 2004-05 to 2008-09 was only one *per cent*.

3.4.2 Position of Audit Reports

During the last five years (including the current year's report), audit through its Audit Reports had pointed out non/short levy/realisation of SD and RF, evasion due to non-execution of conveyance deeds, non-presentation of documents for registration, misclassification of documents, incorrect grant of exemptions/remissions, application of incorrect rate etc., with revenue implication of ` 57.59 crore in 17 paragraphs (including two reviews). Of these, the Department/Government had accepted audit observations in 17 paragraphs (including two reviews) involving ` 46.12 crore and recovered ` 26.53 lakh. The details are shown in the following table:

Year	Paragraphs included		Paragraph accepted		Amount recovered	
	(` in crore)				(` in lakh)	
	Number	Amount	Number	Amount	Number	Amount
2005-06	3	7.25	3	7.25	1	11.42
2006-07	3	0.34	3	0.34	1	1.31
2007-08	4 1 (Review)	1.70 24.69	4 1	1.70 15.11	1 -	0.87 -
2008-09	5	0.76	5	0.76	1	1.43
2009-10	1 (Review)	22.85	1	20.96	1	11.50
Total	**17**	**57.59**	**17**	**46.12**	**5**	**26.53**

We observed that the Revenue Department had recovered only ` 26.53 lakh out of accepted cases amounting to ` 46.12 crore during the years 2005-06 to 2008-09. Thus, the recovery in respect of the accepted cases was very low (0.6 *per cent*). The slow progress of recovery even in respect of accepted cases is the indicative of failure on the part of the heads of offices/department to initiate effective action to recover the Government dues promptly.

We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.

3.5 Results of audit

Test check of the records of various registration offices during the year 2009-10 revealed non/short levy of SD and RF and non-deposit of mutation/copying fee amounting to ` 23.07 crore in 481 cases, which fall under the following categories:

(` in crore)

Sr. No.	Category	Number of cases	Amount
A- Revenue Department – Stamps and Registration Fees			
1.	**Levy and collection of stamp duty and registration fee (A review)**	1	22.85
2.	Miscellaneous irregularities	92	0.12
	Total	**93**	**22.97**
B- Land Revenue			
1.	Miscellaneous irregularities	388	0.10
Total		**481**	**23.07**

During the year 2009-10, the department accepted underassessment and other deficiencies of ` 20.99 crore involved in 159 cases which had been pointed out during 2009-10. The department recovered ` 13.27 lakh in 18 cases during the year 2009-10, of which one case involving ` 11.50 lakh related to the year 2009-10 and the balance to the earlier years.

A Review of **"Levy and collection of stamp duty and registration fee"** with financial impact of ` 22.85 crore is mentioned in the following paragraphs.

3.6 Levy and collection of stamp duty and registration fee

3.6.1 Highlights

- No system was devised by the Department to ensure that SD and RF had been levied on all the instruments due for registration as per provisions of the Acts. The non-levy of SD and RF on documents due for registration under the Acts but not presented for registration had deprived the Government of revenue of ` 3.58 crore.

(Paragraph 3.6.8.1 to 3.6.8.4)

- Irregular remission of RF of ` 4.33 crore in the absence of enabling provision to remit the fee under the IR Act.

(Paragraph 3.6.9)

- SD and RF of ` 9.19 crore was short levied on sale deeds of plots with an area less than 1,000 square yards due to application of lower rates and non-reckoning of the market value of the properties as per rates fixed by the Evaluation Committee.

(Paragraph 3.6.10.1 and 3.6.10.2)

- Lack of a prescribed time frame for the disposal of cases under adjudication resulted in non-finalisation of 1,163 cases of undervaluation of immovable properties involving SD of ` 5.34 crore.

(Paragraph 3.6.11)

- SD and RF of ` 6.37 crore was short levied/realised due to misclassification of instruments.

(Paragraph 3.6.12.1 and 3.6.12.2)

- Delay in implementation of the enhanced rates of RF resulted in short realisation of RF of ` 1.13 crore.

(Paragraph 3.6.13)

3.6.2 Introduction

SD, RF and penalty are the major receipts of the department. These are regulated under the IS Act, IR Act, Punjab Stamp Rules, 1934, as adopted by the Government of Haryana with suitable amendments and the Haryana Stamp (Prevention of Undervaluation of Instruments) Rules, 1978. SD is leviable on the execution of instruments as per Schedule I-A of the IS Act and RF is payable at the prescribed rates. SD is paid by the executors of instruments by using impressed stamps or by affixing non-judicial stamps of proper denomination. Undervaluation of properties, non-presentation of documents in the offices of the registering authority and non/short payment of SD by the executants on the documents submitted before the registering authorities results in evasion of SD and RF.

We undertook a performance audit of "Levy and collection of stamp duty and registration fee". The review revealed number of system and compliance deficiencies, which are discussed in the succeeding paragraphs.

3.6.3 Organisational set up

At the Government level, the FCR is responsible for the administration of the IS Act and IR Act and the rules framed thereunder relating to the registration of various documents. The IGR, Haryana, Chandigarh is the head of the Registration Department and exercises overall control and superintendence over the working of the department as regards to the levy and collection of SD and RF. He is assisted by the DCs, tehsildars and naib tehsildars acting as Registrars, SRs and JSRs respectively. The State has been divided into four[1] commissionerates, 21 districts[1] having 21 Registrars-cum-Collectors, 74 SRs and 42 JSRs. Instruments are registered in the offices of SRs/JSRs. The Registrars exercise superintendence and control over the working of offices of SRs and JSRs of the district.

3.6.4 Audit objectives

We conducted the review with a view to ascertain whether:

- budget estimates (BEs) were prepared in accordance with the laid down procedure and were realistic;
- adequate system had been devised by the department to ensure that documents due for registration were presented and SD of proper denomination and registration fee due was levied;
- adequate system and procedures were in place to ensure that the exemptions/remissions were correctly granted;
- internal control mechanism was effective and sufficient to safeguard collection of SD and RF on the instruments;
- the provisions of the Act/Rules and departmental instructions are adequate and enforced accurately to safeguard revenue of the State; and
- registering authorities were discharging their functions in levying and collecting SD in accordance with the prescribed rules and procedures.

3.6.5 Scope and methodology of audit

The instruments and other relevant records relating to levy and collection of SD and RF in the offices of IGR, 10 (out of 21) Registrars[2] and 55 (out of 116) registering offices in 10 (out of 21) districts in the State for the years 2004-05 to 2008-09 were test checked during April to October 2009. We have selected eight districts[3] on random sample selection basis by applying formula of probability proportional to size method (without replacement) and Faridabad and Gurgaon districts on the basis of risk analysis. We have also

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1 Ambala Commissionerate: Ambala, Kaithal, Kurukshetra, Panchkula and Yamunanagar; Gurgaon Commissionerate: Faridabad, Gurgaon, Mewat at Nuh, Mohindergarh at Narnaul, Palwal and Rewari; Hisar Commissionerate: Bhiwani, Fatehabad, Hisar, Jind and Sirsa, and Rohtak Commissionerate: Jhajjar, Karnal, Panipat, Rohtak and Sonipat.

2 Faridabad, Gurgaon, Hisar, Jhajjar, Karnal, Kurukshetra, Panchkula, Rohtak, Sirsa and Yamunanagar.

3 Hisar, Jhajjar, Karnal, Kurukshetra, Panchkula, Rohtak, Sirsa and Yamunanagar.

included points of similar nature noticed during audit for the period 2004-05 to 2008-09 and persuaded for their replies during April to October 2009.

3.6.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Revenue Department in providing necessary information and records for audit. An entry conference was held on 20 July 2009 and attended by the Under Secretary (Revenue) of the Revenue Department. The audit objectives, audit methodology and selection of districts for the review were discussed and agreed. The suggestions of the Department were kept in view at the time of selection of units and conducting audit. We had forwarded the draft review report to the Department and Government in April 2010. An exit conference was held on 7 July 2010, with the Under Secretary (Revenue) of the Revenue Department. During the exit conference, the findings of the review and recommendations were discussed. The replies furnished by the Department during the exit conference and at other times have been appropriately incorporated in the respective paragraphs. In July 2010, the Revenue Department had given interim reply in respect of paragraphs number 3.6.10, 3.6.12, 3.6.14 to 3.6.18 and 3.6.20 that the cases had been sent to the Collectors for determination of SD and Collectors were being persuaded for early decision. We are yet to receive their final reply in these cases.

The Revenue Department also stated in July 2010 that the recommendations would be examined and considered. Necessary action would be taken accordingly.

3.6.7 Trend of receipts

Under Para 3.2 of the Punjab Budget Manual, as applicable to the State of Haryana, BEs of the revenue receipts for the ensuing year should be based on original BE of the year just closed; actual of the two years preceding the year that just closed; actual of previous year for last six months and actual of current year for first six months to make the estimates more realistic.

The variations between BEs and actuals of SD and RF receipts and total tax/non-tax receipts for the years 2005-06 to 2009-10 are mentioned below:

(` in crore)

Year	Budget estimates	Actual receipts	Variation Excess(+)/ shortfall (-)	Percentage of variation (Col. 4 to Col. 2)	Total tax/non-tax receipts of the State	Percentage of actual receipts vis-à-vis total tax/non-tax receipts (Col. 3 to Col. 6)
1	2	3	4	5	6	7
2005-06	820.00	1,339.73	(+) 519.73	(+) 63	11,537.21	12
2006-07	1,000.00	1,764.98	(+) 764.98	(+) 76	15,518.52	11
2007-08	1,780.00	1,763.28	(-) 16.72	(-) 01	16,714.90	11
2008-09	2,100.00	1,326.39	(-) 773.61	(-) 37	14,893.73	9
2009-10	1,225.00	1,293.56	(+) 68.56	(+) 6	15,960.90	8

Source: State Budget and Finance Accounts.

We observed that BEs were not prepared as per the norms laid down in the Budget Manual. The percentage of actual receipts of SD and RF to total tax/non-tax receipts of the State decreased from 12 *per cent* in 2005-06 to eight *per cent* in 2009-10. There was a steep rise in revenue collection during the years 2005-06 and 2006-07 which was mainly due to increase in transactions of immovable properties and revision of rates of RF with effect from November 2006. Shortfall in revenue during 2008-09 was due to global slowdown of economy leading to decrease in transactions of the immovable properties.

Audit findings

3.6.8 Absence of mechanism to detect evasion of stamp duty by not presenting documents for registration

As per proviso (3) to Section 33 (2) of the IS 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 etc., 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 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 offices so far. **We observed that the Revenue Department did not have any system to periodically collect information from various departments to ensure that the documents (agreements, contracts, leases, conveyance deeds etc.) are properly registered and realisation of proper SD and RF.**

3.6.8.1 Contracts for collection of toll by private entrepreneurs

Under Section 2 (16) (c) of the IS Act, 'lease' means a lease of immovable property and includes any instrument by which tolls of any description are let, a *patta*[4], a *kabuliyat*[5] or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for immovable property. Any instrument of toll contract is chargeable to SD as an instrument of lease deed at the prescribed rates. The expenses on SD are to be borne by the lessee in the case of a lease or agreement to lease under Section 29 (c) of the IS Act. Section 17 (1) (d) of the IR Act provides that lease of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent is to be registered compulsorily. SD on lease deed is chargeable at the prescribed rates for a consideration equal to the amount or value of fine, premium or advance in addition to the amount of the average annual rent reserved and on the basis of the period of lease. As per Article 35 (a) (ii) of Schedule 1-A of the IS Act, the rates of SD in the case of lease of one year to five years is 1.5 *per cent* of the amount of the annual average rent.

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4 A *patta* is a lease of land for cultivation.

5 *Kabuliyat*: means *malkana*/possession.

We collected the information from the office of the Managing Director, Haryana State Roads and Bridges Development Corporation Limited, Panchkula in March 2010 and noticed that the corporation entered into agreements with 49 entrepreneurs between June 2004 and March 2009 for collection of toll (toll contracts) for the periods ranging between one year and two years between June 2004 and June 2010 on different roads near borders of the State for the total consideration of ` 107.23 crore. As per clause number 31 of the agreement, the entrepreneur/agent shall bear and pay the SD in respect of these agreements as per IS Act. These toll contracts were required to be registered compulsorily as lease deeds in the offices of concerned SRs. None of these agreements for collection of tolls were registered with the concerned registering authorities as the corporation accepted the agreements on non-judicial stamp paper of ` 100 in each case. In accordance with the terms of the lease, SD due on these agreements worked out to ` 1.61 crore on total consideration of contracts amounting to ` 107.23 crore, but SD paid by the entrepreneurs on all these toll contracts was ` 4,900. This deprived the Government of revenue of ` 1.68 crore (SD: ` 1.61 crore; RF: ` 6.63 lakh).

3.6.8.2 Contracts for catching fish from public ponds

The right to catch fish is profit *a prendre*[6] and benefit to arise out of the land is an immovable property for the purpose of levy of SD. Right to catch and carry away fish from a tank/reservoir for a specified period for consideration is immovable property as defined in Section 3 (26) of the General Clauses Act, 1897. If the period for which the benefit given is from year to year or for any period exceeding one year or reserving a yearly rent, it is an instrument and compulsorily registrable. As such these instruments are liable to SD under Article 35 (b) of the Schedule I-A of the IS Act. The rates of SD in the case of lease of any period in which consideration of lease paid in lump sum is three *per cent* of the amount of the contract.

We collected the information from the office of the Director of Fisheries, Haryana, Panchkula in December 2009 and noticed that the Fisheries Department granted licences to 15 licensees on annual basis to catch fish in the public waters specified for the period between September 2007 and August 2008. The licensees paid lump sum consideration of ` 41.55 lakh for the grant of licences and also furnished security. The Fisheries Department accepted the instruments as agreements on non-judicial stamp paper of denomination between ` 2 to ` 20 in 2007-08 and did not insist upon the licensees to get these instruments registered as lease deeds with the concerned 15 SRs/JSRs[7]. Non-execution of lease deeds by these licensees deprived the Government of revenue of ` 1.44 lakh (SD: ` 1.24 lakh[8]; RF: ` 20,300).

After we pointed out the case in December 2009, the Revenue Department stated in July 2010 that instructions had been issued to the Director, Fisheries Department that contract/agreement between the entrepreneurs and Director Fisheries attract the provisions of IS Act and IR Act for registration and levy

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6 Profit *a prendre* means a right to take the produce of the soil.

7 Ambala, Bhiwani, Faridabad, Gurgaon, Hisar, Jhajjar, Jind, Kaithal, Karnal, Kurukshetra, Panipat, Rewari, Rohtak, Sonipat and Yamunanagar.

8 SD: ` 41,55,500 X 3 *per cent* = 1,24,665 (-) 204 = ` 1,24,461.

of SD and RF as lease deed and directed to recover the deficient amount. The stamp auditors had also been directed to conduct audit regarding SD and court fee account of the Districts Fisheries offices at least once a year. We are yet to receive their further reply (August 2010).

3.6.8.3 Sale of industrial units through public auction by Haryana Financial Corporation (HFC)

Under Section 2 (10) of the IS Act, 'conveyance' includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule 1-A. Section 17 of the IR Act stipulates that conveyance is a compulsorily registrable document.

We collected the information from the office of the HFC, Chandigarh in May 2010 and noticed that mortgaged properties of 131 defaulting/sick industrial units were sold by the HFC through auction between April 2004 and March 2009 for the consideration of ` 30.08 crore. These deeds were required to be registered with the registering authorities but the purchasers had not registered these conveyance deeds. Non-execution of conveyance deeds of industrial units sold by the HFC deprived the Government of revenue of ` 1.74 crore (SD: ` 1.66 crore; RF: ` 8.18 lakh).

After we pointed out the case in May 2010, the Revenue Department stated in July 2010 that the HFC had been requested to send their reply with reference to the deficient amount. We are yet to receive their further reply (August 2010).

3.6.8.4 Contracts for mining

Under the IR Act, registration of lease of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent is compulsory. RF was leviable at the prescribed rates subject to a minimum of ` 1.75 and maximum of ` 500 upto 5 November 2006 and thereafter at the revised rates subject to a minimum of ` 50 and maximum of ` 15,000 depending upon the value of the consideration of the document. A mention of "Short levy of SD" was included as paragraph 3.2.16 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2004 (Revenue Receipts) - Government of Haryana. The Revenue Department, while discussing the Report stated before the Public Accounts Committee (PAC) that detailed guidelines had been issued by the Government to all Commissioners/DCs/Mining Officers/Revenue Officers etc. in April 2005 to ensure compulsory registration of such lease instruments keeping in view the provisions of the IS Act and IR Act. The PAC directed the department to make all out efforts to recover the balance amount in a time bound manner and the position of recovery be intimated to them on quarterly basis. **However, we observed that the Department had not taken effective steps to monitor these as evidenced from succeeding paragraph.**

We collected the information from the Department of Mines and Geology, Haryana, Chandigarh in December 2009 and noticed that 123 mining leases/contracts were granted for different periods ranging between one year and seven years during the years 2004-05 to 2008-09 by 13 Assistant Mining

Engineers/Mining Officers[9]. These instruments of leases and contracts were required to be registered compulsorily on payment of SD and RF. However, these deeds were executed with the Mining Department after levying SD on non-judicial stamp papers of proper denomination but were not registered with the concerned registering authorities. Non-registration of instruments deprived the Government revenue of ` 14.43 lakh (RF).

After we pointed out the case in December 2009, the Revenue Department admitted the audit observations and stated in July 2010 that Mining Department had been requested to send their reply as regards recovery of RF of ` 14.43 lakh. We are yet to receive their further reply (August 2010).

With a view to prevent the evasion of SD and RF, the Government may consider laying down norms/targets for the inspection of these public offices by the Registrars/SRs of the concerned districts to ensure the correctness of property classified for the purpose of levy of SD and RF. The Government may also consider prescribing a periodical return to be furnished by them to the Revenue Department on the number and nature of documents presented and deficient SD/RF.

3.6.9 Irregular grant of exemption of registration fee

Section 78 of the IR 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 IR Act similar to Section 9 of the IS 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/UT have amended the IR 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 RF was leviable at the prescribed rates subject to a minimum of ` 1.75 and maximum of ` 500 upto 5 November 2006 and thereafter at the revised rates subject to a minimum of ` 50 and maximum of ` 15,000.

Goa, Kerala, Pandicherry (UT), Rajasthan, Tamilnadu, Uttar Pradesh and West Bengal

The State Government issued a notification on 5 October 1983 remitting RF on any instrument executed by the agriculturists in favour of any commercial bank for securing loans upto the specified amount and for specified purposes under Section 78 of the IR Act. **In the absence of an explicit provision in the IR Act to remit the RF, the notification issued by the State Government was not valid.**

During test check of the records of 46 SRs/JSRs in the selected 10 districts, we noticed that 82,389 deeds of mortgage (without possession of the property) were registered during the years 2007-08 and 2008-09 by the agriculturists for securing loans from the banks, but no RF was charged under the aforesaid notification. Since the notification issued were not in conformity with the provisions of IR Act, the department, instead of bringing out these facts to the notice of the Government, allowed remission of RF of ` 4.33 crore.

[9] Ambala, Bhiwani, Faridabad, Jind, Karnal, Kurukshetra, Mohindergarh at Narnaul, Panchkula, Panipat, Rewari, Rohtak, Sonipat and Yamunanagar.

After we pointed out these cases, the Revenue Department stated in July 2010 that Section 21 of General Clauses Act empowers the State Government to add, amend, vary or rescind the table of fees so prepared. The reply of the department is contrary to factual position since the State Government had remitted the fee under Section 78 and 79 of the IR Act which did not empower the State Government to remit or exempt or reduce the fee and there was no explicit provision/clause in the General Clauses Act empowering the Government to remit the fees payable.

The Government may request GOI to take steps for inserting an explicit provision under the IR Act to specify the power to remit the RF.

3.6.10 Failure to levy stamp duty on land sold with less than 1,000 square yards as residential property and the market value of immovable properties

In order to check evasion of SD in sale deeds, the Government issued instructions in November 2000 to all registering authorities in the State to the effect that land sold within municipal limits and near the residential areas in villages with an area of less than 1,000 square yards or in case where purchasers are more than one and the share of each purchaser is less than 1,000 square yards be valued at the rate fixed for the residential property of that locality for the purpose of levying SD. The Government constituted Evaluation Committees from time to time for fixation of minimum market value of properties in various areas of the State for the guidance of registering authorities and a copy of these rates is supplied to them by the Department. The Evaluation Committees have also fixed separate rates for prime land. Under Section 47-A of the IS Act, if the registering officer, while registering any instrument relating to transfer of any property, has reason to believe that the value of the property or the consideration, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or consideration and the proper duty payable.

During the course of review, we observed that the registering authorities had not evolved any system for detection of undervaluation in the cases wherein SD on the land sold less than 1,000 square yards was not levied as per rates fixed for residential properties, and SD was levied/assessed on consideration of immovable properties less than its market value in the same locality fixed by the Collector/Evaluation Committee.

3.6.10.1 During test check of the records of 109 registering offices in 20 districts[10] between July 2005 and February 2010, we noticed that 1,613 sale deeds[11] of plots registered between April 2004 and March 2009 with an area less than 1,000 square yards and in other registered cases where purchasers were more than one and the share of each purchaser was less than 1,000 square yards. The deeds were liable to be assessed for ` 123.34 crore

[10] Ambala, Bhiwani, Fatehabad, Faridabad, Gurgaon, Hisar, Jhajjar, Jind, Kaithal, Karnal, Kurukshetra, Mohindergarh at Narnaul, Mewat, Panchkula, Panipat, Rewari, Rohtak, Sirsa, Sonipat and Yamunanagar.

[11] Within municipal limit/urban areas: 187 sale deeds; in or near residential areas in villages: 1,426 sale deeds.

based on the rates fixed for residential areas and SD of ` 6.89 crore (including RF) was chargeable. However, the registering authorities assessed the deeds for ` 39.52 crore based on the rates fixed for agricultural land and levied SD of ` 2.26 crore (including RF). The registering authorities had not gone through the contents of the deeds wherein it was clearly stated that sale deeds of plots presented for registration were less than 1,000 square yards or share of each purchasers (in cases where purchasers were more than one) was less than 1,000 square yards and registered these documents based on the rates fixed for agricultural land instead of rates fixed for residential land in violation of Government instructions issued in November 2000. Further, the registering authorities did not refer these deeds, after registration, to the Collectors for determining the value or consideration of the immovable properties and duty payable thereon. This resulted in short levy of SD and RF amounting to ` 4.63 crore.

After we pointed out these cases between July 2005 and February 2010, 62 registering authorities stated (between April 2009 and April 2010) that 1,150 cases involving revenue of ` 3.46 crore had been sent to the Collectors for determination of value of properties and duty payable thereon. We have not received further progress of recovery and reply in respect of remaining 463 deeds from registering authorities (August 2010).

3.6.10.2 During test check of the records of the offices of 90 registering authorities in 20 districts[10] between May 2006 and February 2010, we noticed that 457 instruments of conveyance were registered between April 2005 and March 2009. The registering authorities were required to determine the consideration for levy of SD on the basis of market value fixed by the Collector/Evaluation Committee at the time of registration of documents but registered these documents on stamp papers valued as ` 6.05 crore on the basis of the consideration set forth in the instruments. The market value of these properties in conveyance deeds fixed by the Collectors on the basis of minimum market value, however, worked out to ` 181.27 crore on which SD of ` 10.61 crore (including RF) was leviable. Non-reckoning of the market value of the immovable properties by registering authorities resulted in short levy of SD of ` 4.56 crore (including RF).

After we pointed out these cases between May 2006 and February 2010, 79 registering authorities stated (between April 2009 and April 2010) that 365 cases involving revenue of ` 3.98 crore had been sent to the Collectors for determination of value of immovable properties and proper duty payable thereon. We have not received further report and reply in the remaining cases (August 2010).

3.6.11 Absence of time limit for disposal of undervaluation cases referred to the Collector

Under Section 47-A of the IS Act, if the registering officer has reasons to believe that the value of the property or the consideration has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or the consideration and the proper duty payable. Thereafter, 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 person concerned after determining the value of property. The cases so referred to the Collector are entered in register in Form 3 maintained in the office of the Collector. The adjudication orders are also entered in this register. After their finalisation these adjudication cases are returned to the concerned registering officer who will watch the recovery of deficient duty. **We observed that no time limit had been prescribed for disposal of such cases under adjudication.**

During test check of the Reference Register of seven Collectors[12], we noticed that 1,163 cases involving SD of ` 5.34 crore out of 2,488 cases involving revenue of ` 11.42 crore referred between 2004-05 and 2008-09 by 21 SRs/ JSRs were pending adjudication. 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 pointed out these cases between April and October 2009, the Revenue Department stated in July 2010 that a strict time limit could not be fixed for disposal of such cases being court cases involving legal procedures under Stamp Act. However, instructions had been issued to the field functionaries to decide these cases in the earliest possible time.

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

3.6.12 Short levy of stamp duty and registration fee due to misclassification of documents

Section 2 (10) of the IS Act, provides that 'conveyance' includes conveyance on sale and every instrument by which property whether movable/immovable is transferred *inter vivos* and which is not otherwise specifically provided for by schedule I-A of the Act. 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 SD becomes leviable under the IS Act.**

3.6.12.1 During test check of the records of 19 registering offices[13] between July 2007 and January 2010, we noticed that 50 instruments conveying possession and transfer of property after receipt of full consideration of ` 84.99 crore to the vendees were executed between April 2006 and March 2009. Since the vendors received full amount in lieu of the property sold and the possession of the immovable property was also handed over to the purchasers in all the cases, the deeds were liable to be treated as conveyance deeds and SD of ` 5.89 crore was leviable. However, the registering authorities misclassified and registered these instruments as

[12] Hisar, Karnal, Kurukshetra, Panchkula, Rohtak, Sirsa and Yamunanagar.

[13] Adampur, Ateli, Ballabhgarh, Bahadurgarh, Barwala, Bhiwani, Charkhi Dadri, Gurgaon, Hansi, Hathin, Hisar, Kanina, Mahendragarh at Narnaul, Nighdu, Pataudi, Pehowa, Ratia, Sohna and Sonipat.

agreements charging SD between ` 3 and ` 100 in each case which was incorrect. This resulted in short realisation of SD of ` 5.89 crore.

After we pointed out these cases between July 2007 and January 2010, the registering authorities stated (between May 2009 and February 2010) that 16 cases involving SD of ` 5.77 crore were referred to the Collectors for determination of value of properties and proper SD payable thereon and notices were issued for recovery of ` 4.08 lakh in 14 cases. We have not received further report on recovery and action taken (August 2010).

3.6.12.2 During test check of records of the offices of five SRs/JSRs[14] between January and September 2009, we noticed that eleven collaboration agreements having transaction value zero were registered between September 2007 and March 2009 in respect of land on which SD of ` 100 each (nine deeds) and ` 1,500 each (two deeds) was levied as applicable in the case of an agreement not involving sale of land. Scrutiny of these agreements further revealed that the owners of land authorised the developers to take possession of the land with the right to construct, develop and deal with the land in accordance with the terms and conditions of the agreements. In exchange of the consideration, the owners of land were entitled to a part of the developed land. The developers were entitled to dispose off their shares of developed land in such a manner as they deemed fit without requiring any consent from the owners. Hence, the development right/collaboration agreements were conveyance of right to develop, construct and sell the property and were liable to pay SD on sale of property in respect of the developers' share of land. However, as per rates fixed by the Collector applicable in the concerned areas, total value of land transferred to the developers worked out to ` 5.68 crore. Misclassification of these sale deeds resulted in short levy of SD of ` 47.13 lakh and RF of ` 68,000.

After we pointed out these cases between January and September 2009, SRs Farukhnagar, Gurgaon and Tauru stated (November 2009 and February 2010) that six cases (` 27.52 lakh) had been sent to the Collectors for determination of value of properties and proper duty payable thereon. We have not received further report on action taken and reply from JSR Dharuhera and Manesar (August 2010).

3.6.13 Delay in implementation of enhanced rates of registration fee

As per notification issued in November 2006, the Government revised the rates of RF with effect from 6 November 2006. The RF was leviable at the prescribed rates subject to a minimum of ` 1.75 and maximum of ` 500 upto 5 November 2006 and thereafter at the revised rates subject to a minimum of ` 50 and maximum of ` 15,000 depending upon the value of the consideration of the document.

During test check of the records of 72 JSRs/SRs of 13 districts[15] (between April 2007 and February 2008), we noticed that the registering authorities registered 5,341 instruments relating to immovable properties between

[14] Dharuhera, Farukhnagar, Gurgaon, Manesar and Tauru.

[15] Ambala, Bhiwani, Fatehabad, Jhajjar, Jind, Kaithal, Mahendragarh at Narnaul, Mewat at Nuh, Panchkula, Panipat, Rohtak, Sirsa and Yamunanagar.

6 November and 8 December 2006 and charged RF amounting to ` 26.15 lakh at the pre revised rates instead of ` 1.39 crore at the revised rates. This resulted in short realisation of RF of ` 1.13 crore.

After we pointed out these cases between April 2007 and February 2008, the department stated (between July 2009 and February 2010) that a sum of ` 11.50 lakh had been recovered in 609 cases between April 2008 and December 2009, notices had been issued between July 2009 and January 2010 by seven SRs/JSRs to recover the amount of ` 9.21 lakh in 479 cases and efforts were being made by 37 SRs/JSRs to recover the amount of ` 46.24 lakh in 2,192 cases. The remaining 15 SRs/JSRs stated (between April 2009 and February 2010) that the recovery of ` 19.78 lakh in 965 cases was not justified as the revised rates were adopted from the date on which copy of notification was received. The reply of the registering authorities is contrary to the clarification issued by the Government in May 2008 since the notification regarding enhancement in the rates of RF was applicable from 6 November 2006. The Government further directed (May 2008) the Registrars to recover the differential amount in case the documents had been registered by charging RF at the pre-revised rates. The Revenue Department stated in July 2010 that strenuous effort was being made for the early recovery. We have not received further report on action taken and any report on recovery (August 2010).

3.6.14 Evasion of stamp duty due to undervaluation of immovable property

Sections 27 and 64 of the IS Act provide that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amounts of duty with which it is chargeable, should be fully or truly set forth therein. The IS Act further provides that any person who, with intent to defraud the Government, executes an instrument in which all the facts and circumstances required to be set forth in such instrument are not fully and truly set forth, is punishable with a fine which may extend to ` 5,000 per instrument. With a view to curb evasion of SD due to undervaluation of immovable property, Revenue Department issued instructions in November 1992 that all the deed writers should be asked to submit a copy of the agreement to sell, to each SR, immediately after it was entered into the register of deed writers. In case the agreement pertains to property situated in the jurisdiction of some other SR, it should be transmitted to the concerned SR. In case any deed writer is not found doing so, his license should be cancelled immediately. Revenue Department clarified in July 1993 that cases, wherein the seller and purchaser had registered sale deeds for a lesser amount than the specified amount agreed upon in agreement to sell by them, should be treated as evasion of SD instead of undervaluation of properties. Such cases should not be referred to the Collector under Section 47 A of the Act for determination of the value of the property.

During test check of the records of 34 offices of SRs/JSRs in 15 districts[16] between September 2006 and February 2010, we noticed that 99 conveyance

[16] Bhiwani, Fatehabad, Gurgaon, Hisar, Jhajjar, Jind, Kaithal, Kurukshetra, Mewat, Panchkula, Panipat, Rohtak, Sirsa, Sonipat and Yamunanagar.

deeds were registered between June 2004 and March 2009 on account of sale of immovable properties. The total value of properties set forth in all these conveyance deeds was ` 15.91 crore. Further we cross verified these deeds with the agreements executed between the concerned parties between February 2004 and March 2009 and recorded with the various document writers and noticed that the total sale value of the agreements worked out to ` 35.62 crore. Thus, the conveyance deeds were got executed and registered at a consideration less than that agreed upon between the affected parties. Undervaluation of immovable properties in conveyance deeds resulted in evasion of SD of ` 77.13 lakh (including RF). Additionally, penalty of ` 4.95 lakh for undervaluation made with intent to defraud the Government was also leviable.

After we pointed out these cases between September 2006 and February 2010, JSRs Behal and Rajaund stated that notices had been issued to recover the amount of ` 11.51 lakh in six cases. SRs Bahadurgarh, Beri and Charkhi Dadri stated that efforts were being made to recover the amount of ` 1.71 lakh in six cases. Fourteen SRs/JSRs[17] stated (between April 2009 and May 2010) that 33 cases involving revenue of ` 27.78 lakh had been sent to the Collectors for determination of value of properties and proper duty payable thereon. The reply of the 14 SRs/JSRs is not correct as the value of the property had already been agreed upon between the parties and there was no need to refer the cases to the Collector for decision. We have not received any report on recovery and reply from the remaining registering authorities (August 2010).

3.6.15 Non-levy of stamp duty on collusive decrees[18]

Under Section 17 of the IR Act, non-testamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future any right, title or interest, whether vested or contingent, of the value of ` 100 and upwards, to or in immovable property are compulsory registrable documents. Thus, a compromise decree[19] which is not bonafide[20] is liable to be charged as an instrument of conveyance. The FCR issued instructions in September 1996 to all the registering authorities that mutated property registered on the basis of a compromise decree which is not bonafide is liable to be charged as an instrument of conveyance as per Schedule 1-A of the IS Act. The SRs were asked to carefully examine each document so as to ensure that there is no deliberate attempt for evasion of SD and the same is properly stamped under the Act.

During test check of the records of offices of seven SR/JSR[21] between July 2007 and October 2009, we noticed that 14 compromise decrees which were not bonafide were registered between February 2007 and March 2009 without any consideration therein. These parties obtained collusive decrees to

17 Bass, Chhachhrauli, Dhand, Hansi, Hisar, Jhajjar, Meham, Morni, Narnaund, Pataudi, Pehowa, Sonipat, Thanesar and Tosham.

18 Collusive decree means the decree obtained by the parties by fraudulent secret understanding.

19 Settlement of property by mutual consent.

20 Which is related by blood relation.

21 Bass, Hisar, Panipat, Pehowa, Rania, Sirsa and Sohna.

evade SD and RF. The registering authorities did not comply with the instructions of the FCR issued in September 1996 and did not levy SD and RF in 13 deeds without confirming the facts that properties mutated were executed between blood relations and levied SD and RF of ` 45,000 (instead of ` 11.01 lakh leviable) in one deed of Sohna. These decree deeds were liable to be assessed for ` 7.69 crore based on the rates fixed by the Collector and accordingly SD and RF of ` 43.21 lakh was chargeable. This resulted in non-levy of SD and RF of ` 42.76 lakh.

After we pointed out these cases between July 2007 and October 2009, five SRs/JSRs[22] stated (between August 2009 and February 2010) that 11 cases involving revenue of ` 38.52 lakh had been sent to the Collector for decision. We have not received further report and reply from SR Rania and Sirsa (August 2010).

3.6.16 Irregular remission of stamp duty on instruments of compensation awards

By a notification issued on 11 August 1995, the Government remits SD in respect of the sale deeds to be executed by the farmers whose land is acquired by the Government of Haryana for public purposes and who purchase agricultural land in the State within one year of the amount of compensation received by them for the acquired land. This remission is subject to the conditions viz. the remittance will be limited to the compensation amount only and the additional amount involved for the purchase of agricultural land will be liable to SD as per rules. Such farmers will have to obtain a certificate from the concerned Land Acquisition Controller (LAC) regarding acquisition of their land by Government and the amount of compensation being paid to them and produce the same before the registering authority while getting the sale deed registered in respect of the agricultural land being purchased with the amount of compensation.

During test check of the records of 20 offices of SRs between November 2008 and December 2009, we noticed that the registering authorities had registered deeds of conveyance in the following 63 cases between April 2007 and March 2009 and did not levy SD of ` 86.79 lakh under aforesaid notification without verifying the conditions specified therein as mentioned below:

(` in lakh)

Name of the registering authority	Number of instruments	Period	SD leviable	Nature of irregularity
Jhajjar	1	2008-09	11.13	Remission was in-correctly allowed to the Company though it was allowable only to the farmers.
Badhra, Bapoli, Beri, Bhiwani, Charkhi Dadri, Panipat and Rewari	23	2007-08 and 2008-09	62.96	Certificate from LAC was not produced.

[22] Bass, Hisar, Pehowa, Sirsa and Sohna.

Name of the registering authority	Number of instruments	Period	SD leviable	Nature of irregularity
Ballah, Bondkalan, Chhachhrauli, Fatehabad, Kalayat, Panipat, Ratia, Rohtak and Sampla	31	2007-08 and 2008-09	6.65	Remission was in-correctly allowed on purchase of residential land.
Bapoli, Gharaunda, Nathusari Chopta and Rania	8	2007-08 and 2008-09	6.05	Land was purchased after one year from the date of receipt of amount of compensation.
Total	**63**		**86.79**	

After we pointed out these cases between November 2008 and December 2009, six SRs[23] stated (between July 2009 and June 2010) that 19 cases had been sent to the Collector for decision. Six SRs[24] stated between September 2009 and February 2010 that necessary action would be taken in 34 cases as per provisions of the Act/Rules. We have not received further report (August 2010).

3.6.17 Excess remission of stamp duty on the instrument in which immovable property purchased by woman and man jointly

As per notification issued on 19 July 2005, the Government allows reduction of SD by one *per cent* on conveyance on sale in respect of purchase of immovable property where a woman is joint holder with a man. Further, the Government clarified in November 2008 that if a man and a woman purchase property jointly in equal share/proportion then SD by one *per cent* is to be exempted on total value of consideration in the sale deed. Where their share is not in equal proportion in such cases concession by two *per cent* in SD was to be given on the value of consideration in the sale deed to the extent of share of a woman/women involved.

During test check of the records of the offices of 16 SR/JSR[25] between July 2009 and February 2010, we noticed that 48 instruments of sale of immovable properties were registered between April 2008 to March 2009 for the consideration of ` 22.49 crore (Share of men: ` 17.39 crore; Share of women: ` 5.10 crore) by men/women jointly. Since the share of land purchased by them was not in equal share in all these cases, SD of ` 1.28 crore was chargeable on the basis of their share. The department charged SD of ` 1.14 crore on the basis of equal share. This resulted in excess remission of SD of ` 13.44 lakh.

After we pointed out these cases between July 2009 and February 2010, five SRs[26] stated (between November 2009 and April 2010) that 31 cases involving revenue of ` 9.15 lakh had been sent to the Collectors. The remaining 11 SRs stated (between July 2009 and February 2010) that action in

23 Bhiwani, Chhachhrauli, Jhajjar, Panipat, Rohtak and Sampla.
24 Ballah, Bapoli, Beri, Fatehabad, Kalayat, and Ratia.
25 Bahadurgarh, Ballabhgarh, Bhattukalan, Dhand, Farukhnagar, Guhla, Gurgaon, Kaithal, Kalayat, Kalanaur, Pataudi, Ratia, Rohtak, Sadhaura, Sirsa and Sohna.
26 Ballabhgarh, Farukhnagar, Gurgaon, Rohtak and Sirsa.

respect of 17 cases involving SD of ` 4.29 lakh would be taken as per provisions of the Act/Rule. We have not received further report (August 2010).

3.6.18 Short levy of stamp duty on lease deeds

Article 35 of Schedule I-A of the IS Act provides for levy of SD on lease deeds at prescribed rates for consideration equal to the amount or value of the fine or premium or advance in addition to the amount of the average annual rent reserved and on the basis of period of lease.

During test check of the records of the offices of SR, Gurgaon, Panipat, Pataudi, Rewari and Sohna between May 2005 and August 2009, we noticed that eight instruments of lease for the period ranging between three to thirty years were registered between February 2005 and January 2009. The lessee received advance rent amounting to ` 5.37 crore and annual average rent amounting to ` 7.94 crore. The registering authorities levied SD of ` 18.32 lakh against ` 37.49 lakh due to computation mistake and non-levy of SD on the advance rent. This resulted in short levy of SD of ` 19.17 lakh.

After we pointed out these cases between May 2005 and August 2009, SRs Gurgaon and Sohna stated (December 2009 and January 2010) that two cases involving short levy of duty of ` 6.28 lakh had been sent to the Collectors for decision. SRs Panipat and Rewari issued notices to four parties to recover the duty of ` 10.36 lakh. We have not received any report on recovery and reply from SR Pataudi in two cases (August 2010).

3.6.19 Non-levy of additional stamp duty on the instruments registered within municipal committee limit

As per Urban Development Department notification issued on 11 March 2004, the rate of additional duty was reduced from three to two *per cent* with effect from 25 March 2004 on the value/consideration of the instruments of transfer of immovable properties within municipal limit. Additional duty recovered shall be transferred to concerned municipality/municipal corporation.

During test check of the records of the offices of SR/JSR Ateli, Dharuhera and Mahendragarh in May 2007 and February 2009, we noticed that 53 instruments of sale of immovable properties falling within municipal limits having transaction value or consideration amounting to ` 7.97 crore were registered between April 2006 and October 2007. The additional duty at the rate of two *per cent* on the value/consideration of the instruments of transfer of immovable properties (` 7.97 crore) was neither levied nor transferred to the concerned municipalities/municipal corporations. This resulted in non-levy of additional duty of ` 15.94 lakh.

After we pointed out these cases in May 2007 and February 2009, SR Mahendragarh stated in June 2009 that recovery of ` 1.86 lakh in two cases had been decided by the Collector. SR Ateli stated in July 2009 that efforts were being made to recover the duty. We have not received further report on recovery and reply in the remaining cases (August 2010).

3.6.20 Non-levy of stamp duty and registration fee on the

instrument executed in favour of public sector undertaking

As per proviso (1) under Section 3 of IS Act, no SD shall be chargeable in respect of any instrument executed by or on behalf of or in favour of Government. However, there is no provision in the Act/Rules for specific exemption/remission on the instruments executed in favour of State owned enterprises or autonomous bodies.

During test check of the records of the office of JSR, Ladwa (Kurukshetra) in April 2009, we noticed that the Municipal Committee Ladwa had gifted 40 *kanal*[27] land in favour of District Sports Council, Kurukshetra (an autonomous body) and registered gift deed in September 2008. The department worked out the consideration of gifted land for ` 50 lakh and allowed exemption from payment of duty treating District Sports Council as Government department. Since the District Sports Council is an autonomous body and not a Government Department, SD of ` 2.50 lakh and RF of ` 15,000 was leviable. This resulted in non-levy of SD and RF of ` 2.65 lakh.

After we pointed out this case in April 2009; the department stated (September 2009) that the case had been sent to Collector for decision. We have not received further report (August 2010).

3.6.21 Non-ascertaining the genuineness of stamp papers

Under Rule 26 of the Punjab Stamp Rules, 1934, the Collector may grant a license for the sale of stamp to any person at any place or within any area within the limits of his district provided that no person shall be licensed to sell any single stamp exceeding ` 1,000 up to 29 November 2006 and thereafter upto ` 10,000 in value in case of court fee stamps or non-judicial stamps. If stamps exceeding ` 10,000 in value are required by an individual then he has to approach the Treasury Officer directly for the purpose. The number and date of issue of stamps is required to be written on the face of the office copy of stamp papers. A photo/duplicate copy of the same is placed in the office of the Registrar for record so that the genuineness of stamps could be checked with reference to treasury records.

A mention of "Defects noticed in SRs offices" was made as paragraph 3.2.7 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2004 (Revenue Receipts) - Government of Haryana. The Revenue Department, while discussing the report, stated before the PAC that detailed guidelines had been issued by the Government to all the DCs in April 2005 that the compliance of requirements of Section 18 A of the IR Act, as regards recording of number and date of issue of stamps along with the name of issuing treasury on the face of office copy of the deed for pasting it in the records for verification.

During test check of the records of the offices of SR/JSR Bhuna, Faridabad, Pehowa and Uklana between April 2006 and August 2009, we noticed that 134 deeds involving SD of ` 1.34 crore were registered between April 2005 and March 2009. The particulars regarding sale of stamp papers viz. name of the treasury or number and date of the issue of the stamp papers or both were not recorded in the office copies of the deeds available in the

[27] *Kanal:* 20 *marla* or 605 square yards.

registering offices. We observed that the registering authorities had not complied with the instructions issued by the Government in April 2005. In the absence of complete particulars of the source of the purchase of the stamp papers, the genuineness of the test checked stamp papers valued as ` 1.34 crore could not be ascertained.

After we pointed out these cases between April 2006 and August 2009, the Revenue Department admitted the audit observations and stated in July 2010 that there was a lapse on the part of registering officers and details were being ascertained. Instructions to this effect were also issued in April 2005 and strict compliance would be ensured.

3.6.22 Internal control mechanism

3.6.22.1 Control mechanism to check and inspect stamp vendor's records

Rule 32 (1) of the Punjab Stamp Rules, 1934, stipulates that the vendor's registers in the prescribed form are required to be supplied to the stamp vendors free of charge on application to the Collector. Further, vendors are required to deposit their filled or partially filled vend registers with the Registrar who retains it for a period of 12 years. The aforesaid Rules also provide that the stamp vendor registers are required to be inspected by the SRs/JSRs at least once in a quarter.

During the course of review we observed that no system was evolved in the department to issue registers to the stamp vendors, ensuring deposit and preservation of filled or partially filled registers and inspection of these registers as per laid down norms.

During test check of the registering offices of nine districts[28], we noticed that the Collector had neither supplied the prescribed registers to the stamp vendors nor the stamp vendors deposited their filled/partially filled registers with the Registrar every year. This indicated that the work of vendors was not being monitored by the department at any stage. Further, the registers of the stamp vendors were inspected by the SRs/JSRs once in a year instead of quarterly inspection. Thus, internal checks and supervision was not adequate. Non-issuance of vend registers duly page numbered to the stamp vendors and non-deposit of filled or partially filled registers to the tehsil/district record room, the retention period of which is 12 years, the chances of misuse and destruction of vend registers at any time can not be ruled out. In the absence of records relating to issue of vend registers, the department is unable to verify the number of vend registers used and to be deposited by the stamp vendors. Further, the authenticity of these registers could not be vouched due to non-conducting of quarterly inspection by the departmental authorities.

After we pointed out these cases between April and October 2009, the Revenue Department admitted the audit observation and stated in July 2010 that detailed instructions regarding furnishing of a return/report had been issued (June 2010) to all the DCs in the State.

[28] Faridabad, Gurgaon, Hisar, Jhajjar, Karnal, Kurukshetra, Rohtak, Sirsa and Yamunanagar.

The Government may consider prescribing a return/report to be furnished by the Registrars and SRs/JSRs mentioning the prescribed register issued to/deposited by the stamp vendors and the quantum of inspection against the target fixed.

3.6.22.2 Internal audit

Internal audit is a tool in the hands of management to assure itself that the prescribed systems are functioning well. The Finance Department (Revenue) conducts audit of the offices of SRs/JSRs in the State. For this purpose, one stamp auditor has been posted in each district headquarter (except two stamp auditors at Faridabad) who conducts pre audit of registrable documents in the offices of the SR/JSR before these are returned to the persons/parties presenting the document for registration. The system of pre audit had been abolished vide Government order dated 24 January 2007.

We observed that though an internal audit wing was in operation in the department, information on the audit plan, organisational structure of the wing, details of inspection reports to be issued, follow up action taken on internal audit findings etc., was not furnished by the department, though called for in April and December 2009 followed by a reminder in March 2010. We observed that stamp auditors had conducted cent *per cent* audit of the documents registered in the registration offices and raised observations in few deeds mainly involving undervaluation of immovable properties and short remittance of RF in Government accounts etc. The objections raised by stamp auditors are not included in this review. The irregularities discussed in this review are indicators of ineffective internal audit as none of the compliance irregularities pointed out by us was detected by the internal audit.

After we pointed out the case in April and December 2009, the Revenue Department stated in July 2010 that the stamp auditors were entrusted with the responsibilities to conduct audit of each and every document registered. However report was being sought from the concerned stamp auditor of the State and information would be furnished on receipt of reply. Thus, the fact remains that the Chief Stamp Auditor at headquarter office had not maintained a centralised database of quantum of audit due and conducted, nature of objections raised/issued and complied with etc.

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

3.6.22.3 Inadequate inspection

Inspection is an important internal control in the hands of the administration for ascertaining that the rules and procedures prescribed by the department are followed to safeguard the proper collection of revenue. In the Revenue Department, the IGR is required to conduct annual inspection of the District Registrars (DRs). Under Para 208 of the Haryana Registration Manual, 1967, every SR office should be inspected by the Registrar at least once a year, including the office at headquarters, which is usually the largest and most important in the district.

The minimum number of inspections required to be conducted in five years was 676 (IGR: 101; DRs: 575). However, the information regarding the quantum of inspection to be conducted and actual inspection conducted during the years 2004-05 to 2008-09 was not furnished to audit, though sought for from the offices of the IGR in December 2009 followed by reminder in May 2010 and to DRs in May 2010. It is evident that internal checks and monitoring at apex level were not adequate.

After we pointed out the case, the Revenue Department stated in July 2010 that sometimes being busy in administrative work, officers did not fix time for such inspections. The fact remains that they could not provide the figures of quantum of inspections done against the target fixed.

The Government may consider prescribing a report/return to be furnished by the IGR and DRs mentioning the quantum of inspections done against the target fixed.

3.6.23 Conclusion

Evasion of SD and RF is commonly effected through non-presentation of documents in the offices of registering authorities (SRs/JSRs), misclassification of instruments, exchange of properties through collusive decrees and undervaluation of immovable properties etc. There is no system in the Revenue Department to obtain data periodically from the officer-in-charge of other departments/corporations, before whom documents liable to SD were presented, to ensure realisation of proper SD and RF. The department has neither prescribed any time limit for the disposal of the cases under adjudication nor prescribed any return for sending the information to the higher authorities. It is the duty of the department to have a detailed look at the working of the registering authorities and implementation of the provisions of the Acts/Rules and departmental instructions with a view to ensure proper and actual realisation of SD and RF. The provisions of the notifications for concession/remission of SD and RF to different categories of institutions or different types of registrable documents etc. were also not complied with. The internal control mechanism to monitor levy and collection of SD and RF was ineffective as the departmental authorities and internal audit could not detect the irregularities pointed out by us in this review.

3.6.24 Recommendations

With a view to curb incidence of evasion of SD and RF, the Government may consider:

- laying down norms/targets for the inspection of departments/ corporations by the Registrars/SRs of the concerned districts to ensure the correctness of property classified for the purpose of levy of SD and RF and prescribing a periodical return to be furnished by them to the Revenue Department on the number and nature of documents presented and SD/RF found deficient;
- introducing a system in the department to review the registers of pending cases and prompt disposal of all pending cases. The

monitoring at the apex level may be done by prescribing periodical return. A time limit for finalisation of these cases may also be prescribed;

- prescribing a return/report to be furnished by the Registrars and SRs/JSRs mentioning the prescribed register issued to/deposited by the stamp vendors and the quantum of inspection against the target fixed;
- strengthening the internal audit to ensure timely detection and correction of errors in levy and collection of revenue and avoid recurrence of mistakes pointed out; and
- prescribing a report/return to be furnished by the IGR and Registrar of the districts mentioning the quantum of inspections done against the target fixed.

CHAPTER IV: STATE EXCISE

4.1 Tax administration

In Haryana, Excise duty on alcoholic liquor for human consumption and on medicinal and toilet preparations containing alcohol or opium, Indian hemp and narcotics is levied and collected under the Punjab Excise Act, 1914 and Rules[1] made thereunder, as applicable to the State of Haryana and the Haryana Liquor License Rules, 1970 (HLL Rules). The revenue is mainly derived from the fixed, assessed and auction fee for the grant of license of various vends and excise duties levied on spirit and beer removed from distilleries and breweries and on that imported/exported to and from any other State. The Financial Commissioner and Principal Secretary to Government Haryana, Excise and Taxation Department is the administrative head at Government level and Excise and Taxation Commissioner (ETC) is head of the Department. He is assisted by the Collector (Excise) at headquarter and Deputy Excise and Taxation Commissioners (Excise) {DETCs (Excise)}, Excise and Taxation Officers (ETOs), Assistant Excise and Taxation Officers (AETOs), inspectors and other allied staff for proper administration of State Excise Acts/Rules in the field.

4.2 Trend of receipts

Actual receipts from State excise duty during the years 2005-06 to 2009-10 along with the total tax/non-tax receipts during the same period is exhibited in the following table:

(` in crore)

Year	Budget estimates	Actual receipts	Variation excess(+)/ shortfall (-)	Percentage of variation	Total tax/non-tax receipts of the State	Percentage of actual receipts vis-a-vis total tax/non-tax receipts
2005-06	967.00	1,106.86	(+) 139.86	(+) 14	11,537.21	10
2006-07	1,200.00	1,217.10	(+) 17.10	(+) 01	15,518.52	8
2007-08	1,320.00	1,378.81	(+) 58.81	(+) 04	16,714.90	8
2008-09	1,485.00	1,418.53	(-) 66.47	(-) 04	14,893.73	10
2009-10	1,700.00	2,059.02	(+) 359.02	(+) 21	15,960.90	13

Source: State Budget and Finance Accounts.

The actual receipts of the department during the period 2005-06 to 2009-10 ranged between eight and 13 *per cent*. The reasons for increase in revenue receipts (21 *per cent*) in 2009-10 was mainly due to more collection of duty from the sale of country liquor and foreign liquor.

4.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 in respect of State Excise amounted to ` 84.96 crore of which ` 29.63 crore were outstanding for

[1] Punjab Excise Fiscal Orders, 1932; Punjab Liquor Permit and Pass Rules, 1932; Punjab Distillery Rules, 1932; Punjab Brewery Rules, 1956 and Punjab Excise Bonded Warehouse Rules, 1957.

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	Amount collected during the year	Closing balance of arrears	State Excise receipts	Percentage of column 4 to column 5	Percentage of realisation of arrears (Col. 3 to col. 2)
1	**2**	**3**	**4**	**5**	**6**	**7**
2005-06	35.83	0.61	39.56	1,106.86	4	2
2006-07	39.56	0.78	42.26	1,217.10	3	2
2007-08	42.26	2.57	52.31	1,378.81	4	6
2008-09	52.31	8.36	46.61	1,418.53	3	16
2009-10	46.61	2.75	84.96	2,059.02	4	6

We observed that arrears of revenue had increased from ` 35.83 crore at the beginning of the year 2005-06 to ` 84.96 crore (137 *per cent*) at the end of the year 2009-10. The percentage of realisation of arrears to the arrears at the beginning of the year ranged between two and 16 *per cent* during the years 2005-06 to 2009-10. Though the actual receipts increased by 86 *per cent* (from ` 1,106.86 crore in 2005-06 to ` 2,059.02 crore in 2009-10), the arrears outstanding was increased by 137 *per cent* (from ` 35.83 crore as on 1 April 2005 to ` 84.96 crore as on 31 March 2010).

The Government may advise the Excise and Taxation Department to take effective steps for collecting the arrears promptly to augment Government revenue.

4.4 Cost of collection

The gross collection of revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2005-06 to 2009-10 along with the relevant all India average percentage of expenditure of collection to gross collection for the relevant years are mentioned below:

(` in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage
2005-06	1,106.86	10.75	0.97	3.40
2006-07	1,217.10	12.09	0.99	3.30
2007-08	1,378.81	12.95	0.94	3.27
2008-09	1,418.53	18.46	1.30	3.66
2009-10	2,059.02	20.48	0.99	-

4.5 Revenue impact of the Audit

4.5.1 Position of Inspection Reports

The performance of the Excise and Taxation Department to deal with the irregularities relating to State Excise detected in the course of local audit

conducted during the year 2008-09 and the corresponding figures for the preceding four years is tabulated below:

(` in crore)

Year	Units audited			Cases accepted		Recovery made during the year	
	Number	Number of cases	Amount	Number	Amount	Cases	Amount
2004-05	39	39	3.91	-	-	-	-
2005-06	45	14	13.56	14	13.56	1	0.16
2006-07	47	200	3.87	8	0.27	13	0.34
2007-08	41	826	41.83	231	4.68	17	0.28
2008-09	42	384	5.59	98	1.20	25	0.09
Total	**214**	**1,463**	**68.76**	**351**	**19.71**	**56**	**0.87**

We observed that the recovery in respect of accepted cases during the years 2004-05 to 2008-09 was only four *per cent*.

4.5.2 Position of Audit Reports

During the last five years (including the current year's report), audit through its Audit Reports had pointed out non/short recovery of excise duty, license fee, penalty, non-recovery of cost of supervisory staff posted at the distillery etc., with revenue implication of ` 14.48 crore in 11 paragraphs (including one review). The Department/Government had accepted all the audit observations involving ` 14.48 crore and recovered ` 38.91 lakh till 31 March 2010. The details are shown in the following table:

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	(` in crore)				(` in lakh)	
	Number	Amount	Number	Amount	Number	Amount
2005-06	1 (Review)	4.77	1	4.77	1	15.69
2006-07	2	0.48	2	0.48	1	1.25
2007-08	2	1.23	2	1.23	1	3.11
2008-09	4	2.35	4	2.35	4	8.83
2009-10	2	5.65	2.	5.65	2	10.03
Total	**11**	**14.48**	**11**	**14.48**	**9**	**38.91**

We observed that the recovery in respect of the accepted cases was only three *per cent*. The slow progress of recovery even in respect of accepted cases is indicative of failure on the part of the heads of offices/department to initiate action to recover the Government dues promptly.

We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.

4.6 Working of internal audit wing

The department stated (July 2010) that an internal audit system was set up for control and supervision of expenditure as well as receipts. The department had one Chief Accounts officer, four (against five sanctioned posts) Accounts Officers and 11 (against 14 sanctioned posts) Section Officers. There were 17 Section Officers in the districts level offices who conducted internal audit in respect of the levy and collection of State excise duties/fees/penalty etc., bills/vouchers and cash books. Internal audit party had conducted 13 audits (against 36 auditable units) of revenue receipts and expenditure, but the Chief Accounts Officer failed to furnish the details of objections raised and settled along with the planning of auditable units etc. Thus, the monitoring at the apex level and coverage of internal audit was not adequate. The irregularities discussed in audit paragraphs 4.9.1 to 4.9.2 are indicators of ineffective internal control mechanism as none of these irregularities pointed out by us were detected by the internal audit parties. The Department, therefore, needs to strengthen the internal audit cell to ensure timely detection and correction of errors in levy and collection of excise duty, license fee and penalty.

The Government may strengthen the internal audit wing to ensure timely detection and correction of errors in levy and collection of excise duty.

4.7 Results of audit

Test check of the records of the offices of DETC (Excise) relating to State Excise conducted in audit during the year 2009-10 revealed non/short recovery of excise duty, license fee and penalty etc. amounting to ` 3.95 crore in 377 cases which fall under the following categories:

(` in crore)

Sr. No.	Category	Number of cases	Amount
Excise and Taxation Department (State Excise)			
1.	Non-recovery of penalty on illicit liquor	83	2.64
2.	Non/late deposit of license fee and loss of interest	200	0.88
3.	Non-imposition of penalty	12	0.11
4.	Miscellaneous irregularities	82	0.32
Total		**377**	**3.95**

During the year 2009-10, the department accepted underassessment and other deficiencies of ` 3.76 crore involved in 251 cases, of which 224 cases involving ` 3.59 crore had been pointed out during 2009-10 and the remaining in the earlier years. The department recovered ` 21.65 lakh in 42 cases during the year 2009-10, of which 15 cases involving ` 4.84 lakh related to the year 2009-10 and balance to the earlier years.

A few illustrative audit observations involving ` 5.65 crore are mentioned in the succeeding paragraphs.

4.8 Audit observations

During scrutiny of records of the DETC (Excise) relating to State Excise, we noticed the cases of non-observance of provisions of Acts/Rules and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions remain undetected till an audit is conducted. There is a need for the Government to consider directing the Department to improve the internal control system including strengthening of internal audit so that such omissions can be detected, corrected and avoided.

EXCISE AND TAXATION DEPARTMENT

4.9 Non-observance of provisions of the Acts/Rules

The Punjab Excise Act/HLL Rules/State Excise Policy provides for levy of excise duty/license fee/interest/penalty at the prescribed rate. We noticed that the DETC (Excise) of respective district did not observe provisions of the rules in the cases mentioned in the paragraphs 4.9.1 to 4.9.2. This resulted in non-realisation/recovery of license fee/interest/penalty of ` 5.65 crore.

4.9.1 Non-recovery/levy of penalty on illicit liquor owners

Under Section 61 and 61-A of the Punjab Excise Act, 1914, as applicable to the State of Haryana, penalty not less than ` 50 and not more than ` 500 per bottle of 750 ml is leviable on the offender for possession of illicit liquor[2]. The Act further provides that if penalty is not paid within the stipulated period, the Collector or DETC (Excise) shall pass orders for confiscation of means of transport seized along with liquor and the means of transport shall be put to auction within 30 days from the date of order of confiscation. The auction amount after deducting the expenditure incurred on it shall be adjusted towards the payment of penalty and the excess amount, if any, shall be refunded to the owner. The unrecovered amount of penalty, if any, shall be recoverable as arrears of land revenue.

4.9.1.1 During test check of the records of the offices of DETC (Excise), Faridabad, Kurukshetra and Panchkula in July 2009, we noticed that the department had detained 1,07,436 bottles of illicit country liquor and confiscated 13 vehicles in 13 cases during road checking between April and June 2008. The department, after giving reasonable opportunity, decided these cases and imposed penalty of ` 2.62 crore between April 2008 and May 2009. Neither the defaulters paid the penalty nor did the department initiate any action to recover the amount by auctioning the confiscated vehicles even after lapse of period of seven to 20 months[3]. This resulted in non-recovery of penalty of ` 2.62 crore.

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

3 Delay calculated from the date of imposition of penalty to 31 December 2009.

After we pointed out these cases in July 2009, DETC (Excise), Panchkula stated in June 2010 that recovery proceedings were being initiated by way of auctioning nine vehicles to recover penalty of ` 1.45 crore. DETCs (Excise), Faridabad and Kurukshetra stated in January and June 2010 that efforts were being made to recover the penalty of ` 1.17 crore from four offenders. We have not received further report on recovery (August 2010).

4.9.1.2 During test check of the records of the office of DETC (Excise), Ambala in May 2009, we noticed that in 21 cases, 89,563 bottles of illicit country liquor were detained between July 2008 and March 2009. The department had seized vehicles in 20 cases. The department neither imposed minimum penalty of ` 44.78 lakh nor initiated any action to recover the amount even after a lapse of three to 12 months. This resulted in non-levy/recovery of minimum penalty of ` 44.78 lakh.

After we pointed out the case in May 2009, ETC, Haryana stated in December 2009 that DETC (Excise), Ambala had imposed penalty of ` 45.39 lakh in all the cases between May and August 2009 and recovered ` 1.28 lakh in two cases in May and August 2009. Efforts were being made to recover the balance amount of ` 44.11 lakh. We have not received further progress of recovery (August 2010).

We pointed out the matter to the ETC, Excise and Taxation Department in August and September 2009 and reported to the Government in February 2010; we are yet to receive their reply (August 2010).

4.9.2 Short/non-recovery of license fee and interest

Under the HLL Rules read with the State excise policy for the years 2006-07 to 2008-09, every successful allottee of retail licensed liquor outlet, shall be required to deposit a security equal to 20 *per cent* of the annual license fee of the licensed outlet, out of which, five *per cent* of the license fee has to be deposited on the day of draw of lot, five *per cent* within seven days of the allotment/draw of lot on or before 31 March of the year, whichever is earlier and remaining 10 *per cent* by 7th April of the respective year. The balance 80 *per cent* shall be payable in eight equated instalments starting from April to November of the respective year. In the year 2008-09, the remaining 80 *per cent* was to be paid in nine equated instalments. Failure to pay equated monthly instalments renders him liable to pay interest at the rate of one and a half *per cent* per month for the period from the first day of the month to the date of payment of the instalment or any part thereof. In case the allottee fails to make payment of security deposit equal to 20 *per cent* of annual license fee and defaulted in payment of eight/nine equated instalments of license fee alongwith interest, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district. In such events, the DETC (Excise) may re-allot it at the risk and cost of the original allottee by seeking prior permission of the Financial Commissioner.

4.9.2.1 During test check of the records of four[4] offices of DETC (Excise) between August and December 2008, we noticed that 25 retail outlets were auctioned in February and March 2007 for ` 6.95 crore for the year 2007-08. Out of 25 successful bidders, 22 bidders did not deposit the security amount in full and the remaining three licensees failed to pay monthly instalments of license fee in full by the due date. Of the total license fee of ` 6.95 crore, the allottees deposited security amounting to ` 72.75 lakh and monthly instalments amounting to ` 4 lakh. Thus, the allottees did not deposit the balance amount of ` 6.18 crore. The department cancelled their retail liquor outlets between April and August 2007 and forfeited the entire amount of security. These retail liquor outlets were reauctioned between May and October 2007 for the remaining period for ` 4.36 crore at the risk and cost of original licensees. However, the department did not initiate any action to recover the differential amount of license fee of ` 1.83 crore[5] from the original allottees. This resulted in non-realisation of Government revenue of ` 1.83 crore.

After we pointed out these cases between August and December 2008, DETCs (Excise) stated in September and December 2009 that notices were being issued to recover the amount of ` 1.83 crore from the concerned allottees. We have not received further report on recovery (August 2010).

4.9.2.2 During test check of the records of five[6] offices of DETC (Excise), between May 2007 and July 2009, we noticed that retail liquor outlets for the sale of country liquor/Indian Made Foreign Liquor (IMFL) were allotted to 23 licensees for ` 5.57 crore. The licensees failed to pay monthly instalments of license fee for the period between April 2006 and December 2008 in full by the prescribed dates. Of the total license fee of ` 5.57 crore, the licensees had paid only license fee of ` 5.04 crore. Thus, the allottees did not deposit the balance amount of ` 52.17 lakh. The DETCs (Excise), however, did not initiate action to cease/seal the vends for non-deposit of monthly instalments in full by the end of the month and levy interest for belated payment of the license fee. This resulted in short recovery of license fee of ` 52.17 lakh besides interest[7] of ` 15.41 lakh.

After we pointed out these cases between May 2007 and July 2009, DETCs (Excise) Karnal and Kurukshetra stated in December 2009 that license fee of ` 8.17 lakh (including interest of ` 3,000) had been recovered from four licensees between January 2008 and August 2009 and efforts were being made to recover the balance amount of ` 8.33 lakh. DETC (Excise), Ambala, stated in December 2009 that recovery proceedings under the Land Revenue Act had been started in five cases involving revenue of ` 4.93 lakh. DETCs (Excise) Bhiwani and Kaithal stated in October and December 2009 that efforts were being made to recover the balance amount of ` 30.77 lakh. We have not received further progress of recovery of license fee and interest (August 2010).

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4 Bhiwani, Jhajjar, Jind and Karnal.

5 ` 6.95 crore-` 5.12 crore (` 72.75 lakh + ` 4 lakh + ` 435.70 lakh) = ` 1.83 crore.

6 Ambala, Bhiwani, Kaithal, Karnal and Kurukshetra.

7 Interest calculated upto December 2009.

4.9.2.3 During test check of the records of the offices of DETC (Excise), Jind and Karnal in July 2009, we noticed that 28 licensees had paid the monthly instalments of license fee amounting to ` 2.69 crore for the period between April and December 2008 after the prescribed dates. The delay ranged between 21 to 245 days. The DETC (Excise), however, did not initiate any action to cease/seal the vends for non-deposit of monthly instalments by the end of the month and to levy interest for belated payments of license fee. This resulted in non-levy of interest of ` 7.71 lakh.

After we pointed out these cases in July 2009, DETC (Excise) Jind stated in November 2009 that interest of ` 57,881 had been recovered from two licensees in September 2009 and efforts were being made to recover the balance amount of ` 3.55 lakh. DETC (Excise), Karnal, stated in December 2009 that notices were being issued to the defaulters to recover the outstanding amount. We have not received further progress of recovery of interest (August 2010).

We pointed out the matter to the ETC, Excise and Taxation Department between July 2007 and September 2009 and reported to the Government in February 2010; we are yet to receive their reply (August 2010).

CHAPTER V: OTHER TAX RECEIPTS

5.1 Tax administration

5.1.1 Passengers and goods tax

Registration of motor vehicles, assessments, levy and collection of passengers and goods tax (PGT) are governed under the provisions of the Punjab Passengers and Goods Taxation Act, 1952 (PPGT Act) and the Rules framed thereunder, as applicable to the State of Haryana. The Financial Commissioner and Principal Secretary to Government Haryana, Excise and Taxation Department is the administrative head at the Government level. Overall charge of the department vests with the Excise and Taxation Commissioner (ETC), Haryana, Chandigarh. The work relating to levy and collection of PGT is carried out by the Assistant Excise and Taxation Officers (AETOs) under Deputy Excise and Taxation Commissioners (DETCs) in the field. All the motor vehicles carrying goods and passengers are required to be registered with AETO of the district concerned, in which the owner of the vehicles has residence or place of business where the vehicle is normally kept in the State.

5.1.2 Taxes on vehicles

Registration of motor vehicles, issue of permits for plying stage carriage vehicles for carrying goods and passengers, issue of driving/conductor licences, levy and collection of token tax, permit fee, licence fee etc., are governed under the provisions of the Motor Vehicles Act, 1988 (Central) and the Motor Vehicles Rules, 1989 (Central) and the Punjab Motor Vehicles Taxation Act, 1924 (PMVT Act), as applicable to the State of Haryana, and Haryana Motor Vehicles Taxation Rules, 1993. The Financial Commissioner and Principal Secretary to Government Haryana, Transport Department is the administrative head at the Government level and is responsible for the administration of the Motor Vehicles Acts/Rules in the State and assisted by the State Transport Controller (STC), who exercises general superintendence over the functioning of the department. At district and sub division level, there are 47 registering authorities and 47 Regional Transport Authorities (RTAs). The registering authorities are responsible for registration and licensing of non-commercial vehicles and RTAs are responsible for registering and issuing licences/permits for operating commercial vehicles in the State.

5.2 Trend of receipts

Actual receipts from PGT and Taxes on Vehicles during the years 2005-06 to 2009-10 along with the total tax/non-tax receipts during the same period is

exhibited in the following table:

5.2.1 Passengers and goods tax

(` in crore)

Year	Budget estimates	Actual receipts	Variation Excess(+)/ shortfall (-)	Percentage of variation	Total tax/non-tax receipts of the State	Percentage of actual receipts vis-a-vis total tax/non-tax receipts
2005-06	650.00	757.60	(+) 107.60	(+) 17	11,537.21	7
2006-07	730.00	738.41	(+) 8.41	(+) 01	15,518.52	5
2007-08	924.00	379.39	(-) 544.61	(-) 59	16,714.90	2
2008-09	485.25	370.29	(-) 114.96	(-) 24	14,893.73	2
2009-10	425.00	391.45	(-) 33.55	(-) 8	15,960.90	2

The actual receipts of the Excise and Taxation Department relating to PGT to total tax/non-tax receipts during the period 2005-06 to 2009-10 ranged between two and seven *per cent.*

5.2.2 Taxes on vehicles

(` in crore)

Year	Budget estimates	Actual receipts	Variation Excess(+)/ shortfall (-)	Percentage of variation	Total tax/non-tax receipts of the State	Percentage of actual receipts vis-a-vis total tax/non-tax receipts
2005-06	155.00	172.13	(+) 17.13	(+) 11	11,537.21	1
2006-07	160.00	223.66	(+) 63.66	(+) 40	15,518.52	1
2007-08	275.00	233.79	(-) 41.21	(-) 15	16,714.90	1
2008-09	275.00	239.30	(-) 35.70	(-) 13	14,893.73	2
2009-10	375.00	277.07	(-) 97.93	(-) 26	15,960.90	2

The actual receipts of the Transport Department relating to Taxes on vehicles to total tax/non-tax receipts during the period 2005-06 to 2009-10 ranged between one and two *per cent*.

5.3 Analysis of arrears of revenue

A: Passengers and goods tax

The arrears of revenue relating to PGT as on 31 March 2010 amounted to ` 64.50 crore of which ` 28.32 crore (44 *per cent*) were outstanding for more than five years. The following table depicts the arrears of revenue during the period 2005-06 to 2009-10:

(` in crore)

Year	Opening balance of arrears	Amount collected	Closing balance of the arrears	Actual receipts	Percentage (Col. 3 to Col. 2)	Percentage of closing balance of arrears to actual receipts (Col. 4 to Col. 5)
1	2	3	4	5	6	7
2005-06	52.06	11.29	36.00	757.60	22	5
2006-07	36.00	10.09	51.97	738.41	28	7
2007-08	51.97	22.28	48.55	379.39	43	13
2008-09	48.05	11.52	58.08	370.29	24	16
2009-10	58.08	16.88	64.50	391.45	29	16

We observed that arrears of revenue of PGT had increased from ` 52.06 crore at the beginning of the year 2005-06 to ` 64.50 crore (24 *per cent*) at the end of the year 2009-10. The percentage of realisation of arrears to the arrears outstanding at the beginning of the year ranged between 22 and 43 *per cent* during the years 2005-06 to 2009-10. Though the actual receipts was decreased by 48 *per cent* (from ` 757.60 crore in 2005-06 to ` 391.45 crore in 2009-10), the arrears of revenue was increased by 24 *per cent* (from ` 52.06 crore as on 1 April 2005 to ` 64.50 crore as on 31 March 2010).

The Government may advise the Excise and Taxation Department to take effective steps for collecting the arrears promptly to augment Government revenue.

B: Taxes on vehicles

The Department intimated that there was an arrears of revenue of ` 3.69 crore as on 31 March 2009. Year-wise details of information regarding arrears of revenue viz. arrears pending at the beginning of the year, arrears added and collected during the year and arrears pending at the end of the year for the period 2005-06 to 2009-10 is not available with the Department. Thus, the Department had not maintained centralised database regarding arrears of revenue at the apex level for monitoring and expediting the progress of recovery of arrears.

5.4 Cost of collection

The gross collection in respect of PGT and Taxes on vehicles revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2005-06 to 2009-10 along with the relevant 'All India average percentage' of expenditure of collection to gross collection for the relevant year are mentioned below:

A: Passengers and goods tax

(` in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year
2005-06	757.60	7.22	0.95	-
2006-07	738.41	-	-	-
2007-08	379.39	1.13	0.30	-
2008-09	370.29	1.50	0.41	-
2009-10	391.45	1.94	0.50	-

B: Taxes on vehicles

(` in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year
2005-06	172.13	6.71	3.89	2.67
2006-07	223.66	6.93	3.10	2.47
2007-08	233.79	5.47	2.34	2.58
2008-09	239.30	8.00	3.34	2.93
2009-10	277.07	11.32	4.08	-

The above table shows that the percentage in respect of Taxes on vehicles was high as compared to All India average percentage during the years 2005-06, 2006-07 and 2008-09.

5.5 Revenue impact of the Audit

5.5.1 Position of Inspection Reports

A: Passengers and goods tax

The performance of the Excise and Taxation Department (PGT) to deal with the irregularities detected in the course of local audit conducted during the year 2008-09 and the corresponding figures for the preceding four years is

tabulated below:

(` in crore)

Year	Units audited			Cases accepted		Recovery made during the year	
	Number	Number of cases	Amount	Number	Amount	Cases	Amount
2004-05	22	472	1.10	169	0.44	7	0.23
2005-06	22	29	11.37	29	11.37	9	0.94
2006-07	22	1,325	2.65	501	0.95	2	0.17
2007-08	22	1,690	3.64	384	1.52	21	0.02
2008-09	22	1,406	1.94	319	0.36	18	0.06
Total	**110**	**4,922**	**20.70**	**1,402**	**14.64**	**57**	**1.42**

We observed that the recovery in respect of accepted cases during the years 2004-05 to 2008-09 was only 10 *per cent.*

B: Taxes on vehicles

The performance of the Transport Department (Taxes on vehicles) to deal with the irregularities detected in the course of local audit conducted during the year 2008-09 and the corresponding figures for the preceding four years is tabulated below:

(` in crore)

Year	Units audited			Cases accepted		Recovery made during the year	
	Number	Number of cases	Amount	Number	Amount	Cases	Amount
2004-05	81	14,735	21.16	14,735	21.16	-	-
2005-06	81	71,531	20.72	71,529	20.39	11	0.20
2006-07	81	66,261	18.43	-	-	-	-
2007-08	81	58,275	3.30	4,163	0.49	1	0.01
2008-09	81	4,209	2.11	1,523	1.42	81	0.10
Total	**405**	**2,15,011**	**65.72**	**91,950**	**43.46**	**93**	**0.31**

We observed that the recovery in respect of accepted cases during the years 2004-05 to 2008-09 was only one *per cent*.

5.5.2 Position of Audit Reports

During the last five years (including the current year's report), audit through its Audit Reports had pointed out non/short levy/realisation of PGT, non-levy of interest on delayed/non-payment of tax, non/short realisation of permit fee/token tax/bid money etc., with revenue implication of ` 39.82 crore in 22 paragraphs (including one review). Of these, the Department/Government had accepted audit observations in 19 paragraphs (including one review) involving

` 19.09 crore and recovered ` 1.33 crore. The details are shown in the following table:

A: Passengers and goods tax

Year of Audit Report	Paragraphs included		Paragraph accepted		Amount recovered	
	(` in crore)				(` in lakh)	
	No.	Amount	No.	Amount	No.	Amount
2005-06	1 (Review)	11.10	1	11.10	1	0.92
2006-07	1	1.12	1	1.12	1	57.22
2007-08	3	1.47	3	1.47	3	25.19
2008-09	1	0.99	1	0.99	1	4.52
2009-10	1	0.65	1	0.65	1	6.32
Total	**7**	**15.33**	**7**	**15.33**	**7**	**94.17**

B: Taxes on vehicles

Year of Audit Report	Paragraphs included		Paragraph accepted		Amount recovered	
	(` in crore)				(` in lakh)	
	No.	Amount	No.	Amount	No.	Amount
2005-06	3	18.69	2	0.24	1	0.53
2006-07	3	1.20	2	0.55	2	18.64
2007-08	5	3.16	4	1.53	1	5.07
2008-09	2	0.63	2	0.63	2	7.78
2009-10	2	0.81	2	0.81	2	7.22
Total	**15**	**24.49**	**12**	**3.76**	**8**	**39.24**

We observed that the recovery of accepted cases in respect of PGT and Taxes on vehicles was six and 10 *per cent* respectively. The slow progress of recovery even in respect of accepted cases is indicative of failure on the part of the heads of offices/departments to initiate action to recover the Government dues promptly.

We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.

5.6 Working of internal audit wing

A: Passengers and goods tax

The department stated (July 2010) that an internal audit system was set up for control and supervision of expenditure as well as receipts. The department had one Chief Accounts officer, four (against five sanctioned posts) Accounts Officers and 11 (against 14 sanctioned posts) Section Officers. There were 17 Section Officers in the districts level offices who conducted internal audit in respect of the levy of PGT. Internal audit party had conducted 13 audits (against 23 auditable units) of revenue receipts and expenditure. Thus, the

Chief Accounts Officer failed to furnish the details of objections raised and settled along with planning of auditable units and the coverage of internal audit was not adequate. Moreover, the irregularities discussed in the paragraph 5.9.1.1 to 5.9.1.3 are indicators of ineffective internal control mechanism as none of the irregularities pointed out by us were detected by the internal audit parties.

B: Taxes on vehicles

The department stated (July 2010) that an internal audit system was set up for audit of expenditure and receipts. The department had one Senior Accounts Officer (Audit), five Section Officers, one Assistant and one Clerk. There were two vacancies (each) of Assistants and Clerks. Internal audit party had conducted audit of 20 RTAs and 50 registering authorities for the year 2008-09. Thus, the Senior Accounts Officer (Audit) failed to furnish the details of objections raised and settled along with planning of auditable units. The irregularities discussed in the paragraphs 5.10.1.1 to 5.10.1.3 and 5.11 are indicators of ineffective internal audit as none of the irregularities pointed out by us were detected by the internal audit.

The Government may consider strengthening internal audit wing to ensure timely detection and correction of errors in assessments, levy and collection of PGT and Taxes on vehicles revenue.

5.7 Results of audit

Test check of the records in the offices of Transport, Excise and Taxation and Agriculture departments relating to revenue received from taxes on vehicles, taxes on goods and passengers, and other tax receipts during the year 2009-10 revealed non/short recovery of tax/duty, fees and penalty etc. amounting to ` 3.64 crore in 2,598 cases which fall under the following categories:

(` in crore)

Sr. No.	Category	Number of cases	Amount
A: Transport Department (Taxes on vehicles)			
1.	Non/short recovery of token tax in respect of stage carriage buses	661	1.06
2.	Short charging of permit/countersignature fees from owners of heavy/light transport vehicles	63	0.02
3.	Non-recovery of bid money	20	0.31
4.	Non/short realisation of registration fee and token tax on vehicles transferred from other States	277	0.06
5.	Miscellaneous irregularities	213	0.18
Total		**1,234**	**1.63**
B: Excise and Taxation Department (Taxes on goods and passengers)			
1.	Non-recovery of passengers tax from bus owners of co-operative societies/educational institutions	557	1.35
2.	Non-recovery of goods tax	786	0.39

Sr. No.	Category	Number of cases	Amount
3.	Miscellaneous irregularities	15	0.02
Total		**1,358**	**1.76**
C: Excise and Taxation Department (Entertainment duty and show tax)			
1.	Non-recovery of entertainment duty	3	0.04
D: Agriculture Department (Purchase tax on sugarcane)			
1.	Non-deposit of purchase tax	3	0.21
Grand total		**2,598**	**3.64**

During the year 2009-10, the departments accepted underassessment and other deficiencies of ` 2.06 crore involved in 1,272 cases of which 1,258 cases involving ` 2.01 crore had been pointed out during 2009-10 and balance in the earlier years. The departments recovered ` 19.33 lakh in 138 cases during the year 2009-10, of which 124 cases involving ` 14.46 lakh related to the year 2009-10 and balance to the earlier years.

A few illustrative audit observations highlighting irregularities involving financial effect of ` 1.46 crore are mentioned in the succeeding paragraphs.

5.8 Audit observations

During scrutiny of the records in the offices of Excise and Taxation and Transport Departments relating to revenue received from taxes on goods and passengers, taxes on vehicles and other tax receipts, we noticed the cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax/penalty/permit fee as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. The Government needs to improve the internal control system to avoid occurrence of such cases in future.

EXCISE AND TAXATION DEPARTMENT

5.9 Non-observance of the provisions of Acts/Rules

The PPGT Act and rules framed thereunder, as applicable to the State of Haryana, provide for levy of PGT at the prescribed rate.

While the owners of the vehicles did not pay the tax, the Department also did not issue the demand notice as required in the cases as mentioned in the paragraph 5.9.1. This resulted in non/short realisation of tax of ` 65.27 lakh.

5.9.1 Non/short realisation of passengers tax

Under Section 22 of the PPGT Act and the rules framed thereunder, as applicable to the State of Haryana, the owner of the bus shall pay lump sum tax in advance by 20th of each month either by making deposit into the Government treasury or by furnishing demand draft or pay order to the appropriate authority. PPGT Rules, 1952 provide that if any sum is payable by an owner under the Act or rules, the assessing authority shall serve a demand notice (fix a date not less than 15 days from the date of service) by which the owner shall furnish the receipted challans in proof of such payment. Under Section 14 (B) of the Act, where any tax or penalty is not paid within prescribed time, the owner of the vehicle shall be liable to pay interest at the rate of two *per cent* per month on the amount of tax and penalty remaining unpaid for a period not exceeding three months and also additional interest upto two *per cent* per month for the period of default exceeding three months.

5.9.1.1 Transport co-operative societies

The permit holder buses on link routes of the State under the scheme of privatisation of passenger road transport are required to pay lump sum passengers tax, based on the seating capacity of the bus on monthly rate of ` 16,000 for 52/54 seater and ` 10,000 for 30/32 seater buses, in advance by 20th of each month. Further, the Government, vide notification issued in April 2002, revised rates of passengers tax to ` 20,000 and ` 14,000 for 52/54 and 30/32 seater buses respectively, in case their routes are extended upto 24 kilometers. With effect from March 2007, the Government revised rates of passengers tax to ` 12,000 for 52/54 seater and ` 6,000 for 30/32 seater buses

and in case their routes extended upto 24 kilometers at the rate of ` 16,000 for 52/54 seater and ` 10,000 for 30/32 seater buses.

During test check of records of six[1] offices of Deputy Excise and Taxation Commissioner (Passengers and Goods Tax) {DETC (PGT)} between November 2007 and August 2009, we noticed that 27 transport co-operative societies[2] either did not deposit the monthly passengers tax or deposited it short between April 2006 and March 2009. The department, however, did not raise the demand to realise tax from the defaulting societies. This resulted in non/short realisation of tax of ` 27.23 lakh (including interest of ` 10.26 lakh[3]).

After we pointed out the cases between November 2007 and August 2009, five[4] DETCs stated between September 2009 and May 2010 that a sum of ` 2.49 lakh had been recovered in nine cases between March 2009 and March 2010 and efforts were being made to recover the balance amount of ` 20.88 lakh. DETC Panipat stated (October 2009) that notices had been issued to recover the dues of ` 3.86 lakh from the defaulting vehicle owners. We have not received report on action taken to levy interest and the recovery of balance amount (August 2010).

5.9.1.2 Educational institutions

As per notification issued in October 2007 (applicable from 1 March 2007), the Government prescribed lump sum tax in respect of private schools owning educational institutional buses on the basis of monthly bus charges per seat exceeding ` 100 but not exceeding ` 200 and exceeding ` 200 at the rate of ` 20 and ` 40 per seat per month respectively for nine months in a year.

During test check of the records of four[5] offices of DETC (PGT) between March and May 2009, we noticed that the owners of 132 educational institution buses, granted permits for plying buses, either did not deposit the monthly passengers tax or deposited it short between April 2008 and March 2009. The department, however, did not raise the demand to realise tax from the defaulting bus owners. This resulted in non/short realisation of passengers tax of ` 15.17 lakh (including interest[3] of ` 5.38 lakh).

After we pointed out the cases between March and May 2009, four DETCs stated between October 2009 and April 2010 that a sum of ` 3.83 lakh had been recovered in 63 cases between April 2009 and April 2010 and notices had been issued to the owners of buses, or efforts were being made, to recover the balance amount of ` 11.34 lakh. We have not received report on recovery of balance amount and action taken to levy interest (August 2010).

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1 Fatehabad, Hisar, Kaithal, Karnal, Panipat and Sirsa.

2 As per Haryana Co-operative Societies Act, 1984, a transport co-operative society means a society registered under the Act for plying buses on link routes in the State and granted permit under Section 7 of the Motor Vehicle Act, 1988.

3 Interest calculated upto December 2009.

4 Fatehabad, Hisar, Kaithal, Karnal and Sirsa.

5 Ambala, Fatehabad, Kaithal and Kurukshetra.

5.9.1.3 City bus operators

Section 9 (2E) of the PPGT (Haryana Amendment) Rules, 2004, as inserted with effect from 24 February 2004, provides that the holders of permit for plying buses on the roads within the municipal corporation limit in Gurgaon and Faridabad districts are required to pay passengers tax at the rates prescribed for ordinary half body[6] and ordinary full body[7] buses at ` 4,200 and ` 7,000 per month respectively.

During test check of the records of offices of DETC (PGT), Faridabad (East), Faridabad (West) and Gurgaon between October and December 2009, we noticed that 35 private bus operators who were granted permits for plying buses in city areas did not deposit the monthly passengers tax for different periods between April 2008 and March 2009. The department, however, did not take action to realise the tax from the defaulting bus owners. This resulted in non/short realisation of tax of ` 14.66 lakh. Additionally, interest amounting to ` 8.21 lakh was also leviable for the period between April 2008 and December 2009.

After we pointed out the cases between October and December 2009, DETCs (PGT), Faridabad (East and West) and Gurgaon stated in December 2009 and January 2010 that notices would be issued to the owners of vehicles to recover the dues and amount recovered would be intimated. We have not received further progress of recovery (August 2010).

We pointed out the matter to the ETC, Excise and Taxation Department between February 2008 and February 2010 and reported to the Government in February and March 2010; we are yet to receive their reply (August 2010).

TRANSPORT DEPARTMENT

5.10 Non-observance of the provisions of Acts/Rules

The PMVT Act*/Haryana Motor Vehicle Rules, 1993 provide for:-*

(i) payment of motor vehicles tax/token tax/permit fee by the owners of vehicles at the prescribed rate; and

(ii) token tax to be paid in advance and within the prescribed period.

We noticed that the Transport Department did not observe the provisions of the Acts/Rules in the cases for levy and collection of token tax and permit fee as mentioned in the paragraph 5.10.1. This resulted in non/short realisation of tax/permit fee of ` 78.87 lakh.

5.10.1 Non/short recovery of token tax

Under the PMVT Act and the rules framed thereunder, as applicable to the State of Haryana, token tax shall be leviable in advance on every motor

[6] Half-body bus means an omnibus, which is not a maxi cab, and not a full-body bus.

[7] Full-body bus means an omnibus whose capacity shall be, with ordinary 3x2 seating arrangement, to carry more than 35 but not more than 54 persons, and with luxury 2x2 seating arrangement to carry more than 12 but not more than 35 persons excluding the driver.

vehicle[8] in equal instalments for quarterly periods commencing on the first day of April, July, October and January per vehicle for a period of one year. Any broken period in such quarterly periods shall, for the purpose of levying the tax, be considered as a full quarter. In case of omission to comply with the provisions, the Act further provides that the licensing officer may impose a penalty which may extend to twice the amount of tax due. When a person neglects or refuses to pay instalment of tax within one month from the expiry of the period fixed for such payment, the licensing officer may forward to the Collector a certificate specifying the amount of tax recoverable as arrears of land revenue.

5.10.1.1 Private service vehicles

Transport Commissioner Haryana, Chandigarh, issued instructions in May 2000 that the vehicles designed to carry more than six passengers excluding driver in the name of company/firm, shall be registered under the category of transport vehicle only under the Motor Vehicles Act, 1988 (MV Act). These vehicles will be registered as a transport vehicle by the RTA/District Transport Officers (DTOs) concerned and will pay road tax at the rate of ` 400 per seat per annum, besides charging permit fee as required under the provisions of the Act/Rules. In cases when such vehicles are required to be registered as private vehicles (non-transport vehicles), it shall be done after obtaining approval from the Transport Commissioner office and after the applicant declares by way of an affidavit that the vehicle shall be put to use only for personal use.

During test check of the records of the Registering Authorities (Motor Vehicles) {(MVs)}, Ballabhgarh and Faridabad in January and February 2010, we noticed that 157 vehicles having seat capacity of more than six persons excluding driver were got registered in the name of companies/firms as private service (non-transport) vehicles during the year 2008-09. The registering authorities (MVs) had neither complied with the instructions of the Transport Commissioner in May 2000 to register such vehicles under the category of transport vehicles by the RTA concerned nor obtained affidavits from these vehicle owners declaring the use of the vehicles for their personal use only and also obtaining prior approval from the Transport Commissioner office. The registering authorities (MVs) charged lump sum/one time tax amounting to ` 20.10 lakh at the time of registration of these vehicles. Since these vehicles were required to be registered as transport vehicles, token tax amounting to ` 65.94 lakh was recoverable. This resulted in short realisation of token tax of ` 45.84 lakh, besides permit fee.

After we pointed out the cases in January and February 2010, the registering authorities (MVs) Ballabhgarh and Faridabad admitted the audit observations and issued notices to the vehicle owners to recover the outstanding amount of token tax of ` 45.84 lakh. We have not received report on recovery of token tax and action taken to levy permit fee (August 2010).

[8] Motor vehicle means stage carriage and contract carriage permit holder vehicles.

5.10.1.2 Stage carriage bus owners

Under Section 3 (1) of the PMVT Act, token tax on a stage carriage bus plying for hire and use for the transport of passengers shall be leviable at the rate of ` 550 per seat per annum subject to a maximum of ` 35,000 per vehicle per annum. Further Section 9 of the Act provides that in case of omission to comply with the provisions, the licensing officer may impose a penalty which may extend to twice the amount of tax due.

During test check of the records of eight offices[9] of the Secretary, RTA between September 2008 and August 2009, we noticed that 110 buses of the co-operative transport societies plied as stage carriages during the period April 2007 to March 2009. However, token tax was either not deposited or deposited short by the societies. No action was taken by the RTAs to recover the tax. This resulted in non/short realisation of token tax of ` 22.95 lakh. Additionally, maximum penalty of ` 45.90 lakh was also leviable.

After we pointed out the cases between September 2008 and August 2009, six RTAs[10] stated between November 2009 and February 2010 that ` 5.23 lakh had been recovered in 27 cases between October 2008 and February 2010 and efforts were being made to recover the balance amount of ` 11.56 lakh. RTA Panipat stated in August 2009 that notices would be issued to the concerned parties to recover the amount of ` 2.50 lakh. We have not received the report on recovery and penalty of ` 3.66 lakh (August 2010).

5.10.1.3 City bus owners

As per notification issued in March 2004 under Section 3 (1) of the PMVT Act, a stage carriage or contract carriage plying under a permit issued under Faridabad and Gurgaon city 'Private Bus Service Scheme, 2004' is required to pay token tax prescribed for a half body bus and for a full body bus at the rate of ` 18,000 and ` 30,000 per annum respectively.

During test check of the records of the offices of Secretary, RTA, Faridabad and Gurgaon in June and July 2009, we noticed that 70 private bus operators who were granted permits for plying buses in city areas did not deposit token tax for different periods between April 2008 and March 2009. No action was taken by the RTAs to recover token tax from the defaulting bus owners. This resulted in non/short realisation of token tax of ` 10.08 lakh. Additionally, maximum penalty of ` 20.16 lakh was also leviable.

After we pointed out the cases in June and July 2009, the Secretary, RTAs Faridabad and Gurgaon stated in January 2010 that a sum of ` 1.94 lakh had been recovered in 13 cases between June and December 2009 and efforts were being made to recover the balance amount of ` 8.14 lakh. We have not received any report on recovery of balance amount and action taken to levy penalty (August 2010).

We pointed out the matter to the STC, Transport Department between October 2008 and February 2010 and reported to the Government in February and March 2010; we are yet to receive their reply (August 2010).

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[9] Bhiwani, Faridabad, Gurgaon, Hisar, Jhajjar, Jind, Panipat and Rewari.

[10] Bhiwani, Faridabad, Gurgaon, Jhajjar, Jind and Rewari.

5.11 Non-realisation of additional fee for retention of choice registration mark

We noticed that the Department did not observe provisions of the Government notification in the cases at the time of allowing the registration of choice numbers which resulted in non-levy of additional fee of ` 2.25 lakh.

As per notification issued by the Government in December 2005 under Section 65 of the MV Act and the Haryana Motor Vehicles Rules, 1993 framed thereunder, the registering authority shall allot to the owner of non-transport vehicle[11], a registration mark of his choice on payment of prescribed additional fee. However, if the motor vehicle with choice registration mark is being transferred in the name of other person, the same may be allowed by the registering authority on payment of additional fee as prescribed.

During test check of the records of four[12] registering authorities (MVs) between May 2009 and March 2010, we noticed that in 34 cases, the motor vehicles with choice registration marks were transferred in the name of other persons during the year 2008-09. Registering authorities transferred the vehicles with choice registration marks without charging the additional fee as prescribed. This resulted in non-realisation of additional fee of ` 2.25 lakh.

We pointed out these cases between May 2009 and March 2010, four registering authorities[13] (MVs) stated in March 2010 that a sum of ` 5,000 had been recovered in one case of Sonipat in January 2010 and notices had been/would be issued to recover the balance amount of ` 2.20 lakh. We have not received further report on recovery of balance amount (August 2010).

We pointed out the matter to the STC, Transport Department in November 2009 and March 2010 and reported to the Government in May 2010; we are yet to receive their reply (August 2010).

[11] Non-transport vehicle means private service vehicle registered in the name of an individual and if declared to be used by him solely for personal purposes.

[12] Gohana, Jagadhari, Palwal and Sonipat.

CHAPTER-VI: NON-TAX RECEIPTS

6.1 Results of audit

Test check of the records in departmental offices relating to Finance, Urban Development, Mines and Geology, Co-operation, Public Works {Public Health (Water Services and Sanitation), Irrigation and Buildings and Roads} Forest, Food and Supplies, Agriculture and Industries conducted in audit during the year 2009-10, revealed underassessments of tax and loss of revenue amounting to ` 348.76 crore in 2,208 cases which fall under the following categories:

(` in crore)

Sl. No.	Category	Number of cases	Amount
A: Finance			
1.	**Receipts from guarantee fee (A review)**	1	194.33
Total		**1**	**194.33**
B: Urban Development			
1	Non-collection of external development charges/infrastructure development charges and interest thereon	14	73.00
2.	Short recovery of license fee and conversion charges	12	11.00
3.	Miscellaneous irregularities	9	57.00
Total		**35**	**141.00**
C: Mines and Geology			
1.	Non-recovery of royalty and interest	185	0.36
2.	Non-recovery of interest on late deposit of contract money	46	5.00
3.	Miscellaneous irregularities	26	0.06
Total		**257**	**5.42**
D: Co-operation			
1.	Non/short recovery of dividend on share capital	33	2.38
2.	Non/short recovery of audit fees	140	0.10
Total		**173**	**2.48**

Sl. No.	Category	Number of cases	Amount
E: Public Works Department			
(i) Water services and sanitation			
1.	Loss due to non-levy of charges on un-metered supply of water to industrial institutions/commercial connections	417	1.33
2.	Miscellaneous irregularities	602	0.72
Total		**1,019**	**2.05**
(ii) Irrigation and Buildings and Roads			
1.	Miscellaneous irregularities	162	0.23
F: Forest			
1.	Miscellaneous irregularities	395	2.02
G: Food and Supplies			
1.	Miscellaneous irregularities	67	1.22
H: Agriculture and Industries			
1.	Miscellaneous irregularities	99	0.01
Grand total		**2,208**	**348.76**

During the year 2009-10, the department accepted underassessment and other deficiencies of ` 132.13 crore involved in 452 cases of which 427 cases involving ` 130.64 crore had been pointed out during 2009-10 and the remaining in the earlier years. The Departments recovered ` 2.51 crore in 27 cases during the year 2009-10, of which two cases involving ` 1.02 crore related to the year 2009-10 and balance to the earlier years.

After the issue of draft paragraphs and review the department further recovered ` 81.35 lakh in four cases (including two cases of review: ` 72.45 lakh).

A review of **"Receipts from guarantee fee"** involving ` 193.61 crore and a few illustrative audit observations involving ` 3.57 crore are mentioned in the succeeding paragraphs.

FINANCE DEPARTMENT

6.2 Receipts from guarantee fee

6.2.1 Highlights

- State Government do not have reliable data base regarding guarantees given. The information about guarantee fee to be collected is neither available with the Finance Department (FD) nor with the respective administrative departments.

(Paragraph 6.2.8)

- Power Department had issued letters of comfort for loans raised by Power Utilities amounting to ` 10,813.75 crore during the period 2004-05 to 2008-09 which deprived the Government of guarantee fee of ` 216.28 crore.

(Paragraph 6.2.9)

- Guarantee fee of ` 181.15 crore for the years 2004-05 to 2008-09 was short deposited by four food procuring units due to application of incorrect rate.

(Paragraph 6.2.10)

- Non-raising of demand in respect of the Haryana State Co-operative Agriculture and Rural Development Bank Limited, Panchkula resulted in short realisation of guarantee fee of ` 12.46 crore.

(Paragraph 6.2.11)

6.2.2 Introduction

Article 293 of the Constitution of India empowers the State Government to give guarantee on the security of the Consolidated Fund of the State within such limits as may be fixed by the State Legislature. No law has been passed by the State Legislature laying down the limit within which the Government may give guarantee on the security of the Consolidated Fund of the State. Haryana Government enacted the Haryana Fiscal Responsibility and Budget Management Act, 2005 (HFRBM Act). It lays down a reform agenda through a fiscal correction path in the medium term with the long term goal of securing growth with stability for its economy. As per HFRBM Act, total debt including contingent liabilities should not exceed 28 *per cent* of the estimated Gross State Domestic Product (GSDP) for the year. "Total liability" as defined in the HFRBM Act, means the liabilities under the Consolidated Fund of the State and Public Accounts of the State and also includes borrowings by public sector undertakings (PSUs) and other equivalent instruments including guarantees where principal and/or interest are to be serviced out of the State budgets. Guarantee fee is payable at the prescribed rates in lump sum on drawal of first instalment of loan in case the guarantee is sought for a single loan which is proposed to be drawn in one or more instalments in one financial year. In case the loan is to be drawn in tranches spread over a period of more than one financial year, guarantee fee is chargeable on drawal of first

instalment of loan in the respective financial year. Guarantees are contingent liabilities on the Consolidated Fund of the State in cases of default by borrowers for whom the guarantees have been extended.

We undertook a performance audit with a view to ascertain the efficacy of the system and procedure relating to the computation, collection and accounting of guarantee fee. The review revealed a number of system and compliance deficiencies which are discussed in the following paragraphs.

6.2.3 Organisational set up

Proposals for raising loans and extending of guarantees by the State Government are processed by the borrowing institutions/bodies and forwarded to the respective Administrative Department for issue of sanction orders after obtaining the approval and concurrence of the FD. The Administrative Departments are responsible for maintenance of the record of guarantees availed and guarantee fee deposited/to be deposited. The Administrative Departments shall provide information to the Resources Cell {Economic Research Analysis and Monitoring Unit (ERAMU) established in April 2003} under FD for maintaining the overall records/data of the State guarantees for proper monitoring.

6.2.4 Audit objectives

The review was conducted with a view to ascertain whether:

- the budget estimates (BEs) have been framed as per the provisions of budget manual and correct accountal of the guarantee fee;
- loans were raised against letters of comfort or cash credit limits etc.;
- the amounts of the guarantee fee were correctly assessed and promptly recovered; and
- internal control exists to monitor the levy and collection of the guarantee fee.

6.2.5 Scope of audit and methodology

The review covered the period from 2004-05 to 2008-09 and was conducted from May to November 2009 with reference to the records available in the offices of the FD, six[1] administrative departments and five[2] heads of departments. Since the FD, administrative departments and heads of departments were not maintaining records relating to guarantees extended for

1 Financial Commissioner and Principal Secretaries to Government Haryana, Departments of Co-operation, Food and Supplies, Industries and Commerce, Power, Urban Local Bodies and Welfare of Scheduled Castes and Backward Classes.

2 Registrar, Co-operative Societies, Director, Food and Supplies, Director, Industries and Commerce, Director, Urban Development and Director, Welfare of Scheduled Castes and Backward Classes.

the loans raised by the PSUs, Co-operatives and Rural banks etc., the information from 13 beneficiary[3] institutions, who had raised loans against Government guarantees during the aforesaid period, was collected and scrutinised for the review.

6.2.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the FD and other concerned administrative departments in providing the necessary information and records for audit. An entry conference was held in August 2009 which was attended by the Deputy Director and Research Officer of the FD. The audit objectives, methodology and selection of units were explained and agreed to. We forwarded the draft review report to the Government in April 2010. An exit conference was held on 23 June 2010, with the Financial Commissioner and Principal Secretary, Finance Department. During the exit conference, the findings of the review and recommendations were discussed. The replies furnished by the department have been suitably incorporated in the respective paragraphs.

6.2.7 Trend of revenue

Under Para 3.2 of the Punjab Budget Manual, as applicable to the State of Haryana, BE of the revenue receipts for the ensuing year should be based on original BE of the year just closed; actuals of two years preceding the year that just closed; actual of previous year for last six months and actuals of current year for first six months to make the estimates more realistic.

As per the Finance Accounts, BEs of guarantee fee for the years 2004-05 to 2008-09 as against the actuals under the head of account '0075-Micellaneous General Services-108-Guarantee fee' are as mentioned below:

(` in crore)

Year	BEs	Actuals	Variation (-) shortfall	Percentage of variation
2004-05	20.00	6.86	(-) 13.14	(-) 65.70
2005-06	15.00	4.88	(-) 10.12	(-) 67.47
2006-07	7.20	0.51	(-) 6.69	(-) 92.92

[3] Haryana Power Generation Corporation Limited, Panchkula (HPGCL), Haryana Vidyut Prasaran Nigam Limited, Panchkula (HVPNL), Uttar Haryana Bijli Vitran Nigam Limited, Panchkula (UHBVNL), Haryana Financial Corporation, Chandigarh (HFC), National Scheduled Caste Finance and Development Corporation, Chandigarh, Haryana Backward Classes and Economical Weaker Section Kalyan Nigam, Chandigarh (Kalyan Nigam), Haryana State Co-operative Supply and Marketing Federation Limited, Panchkula (HAFED), Haryana Warehousing Corporation, Panchkula (HWC), Haryana Agro Industries Corporation Limited, Chandigarh (HAIC), Haryana State Federation of Consumers Co-operative Wholesales Stores Limited, Chandigarh (CONFED), Urban Local Bodies, Chandigarh, The Haryana State Co-operative Agriculture and Rural Development Bank Limited, Panchkula and Haryana Dairy Development Federation, Panchkula.

Year	BEs	Actuals	Variation (-) shortfall	Percentage of variation
2007-08	5.12	Negligible	(-) 5.12	(-) 100.00
2008-09	5.12	0.19	(-) 4.93	(-) 96.29

The variations between BEs and actuals ranged between 66 and 100 *per cent* during the years 2004-05 to 2008-09. Thus, the department had not followed the prescribed provisions of the Budget Manual.

The Department stated in February 2010 that the BEs were made by adopting some norms. The BE for the year 2004-05 was made on the basis of trends of previous year. Thereafter, amount of State guarantee started decreasing year after year and State guarantee could not be exactly estimated because it depended upon the requirement of funds by State PSUs against State Government guarantee. The provisions in the BEs for next year were made by taking five *per cent* growth on revised estimates. The reply of the FD is not in consonance with the provisions of the Budget Manual as the BEs have not been prepared as per the norms laid down in the Budget Manual and even the BEs prepared were not as per the formula stated by the FD.

Further, we conducted a cross verification of records and noticed that there was huge variation in the guarantee fee received as shown in the Finance Accounts, Memorandum Explanatory on the budget and guarantee fee compiled by audit on the basis of information supplied by the twelve loanee units as per details given below:-

(` in crore)

Year	Finance Accounts	Memorandum Explanatory on the budget	Compiled by audit
2004-05	6.86	12.08	5.82
2005-06	4.88	9.14	1.59
2006-07	0.51	2.60	2.51
2007-08	-	9.40	3.63
2008-09	0.19	Nil	2.70
Total	**12.44**	**33.22**	**16.25**

We observed that the information available in Finance Accounts and those supplied in memorandum explanatory on the budget differed hugely. Even the information given by the loanee units did not match with the Finance Accounts.

This indicates that there was no effective internal control and monitoring in the departments due to non-maintenance of register of guarantee fee and non-prescribing a periodical return for monitoring the correctness of guarantee fee due and deposited.

6.2.8 Absence of database of guarantee given

The FD issued sanction orders for granting guarantee on loans/funds raised by PSUs, co-operative institutions, local bodies, statutory boards and corporations etc., from financial institutions and open market. Beneficiaries of the Government guarantees are required to pay guarantee fee. As per the instructions issued by the FD from time to time, the administrative departments which provide the Government guarantee should maintain a register for recording all the transactions relating to the guarantees given and the guarantee fee. They should raise demand of the guarantee fee and ensure timely payment. The FD had not prescribed any periodical reports/returns to monitor the computation, levy and collection of guarantee fee by the FD, administrative departments and heads of the departments. A reliable database of the guarantees given and outstanding is, therefore, a pre-requisite to provide guarantee for informed decision making.

During test check of the records of the FD and all the six administrative departments and heads of departments, **we noticed that the FD was neither aware of the amount of guarantees given/guarantee fee to be collected nor was collecting the requisite information as a controlling department from the concerned Administrative Heads of the departments.** Consequently, these departments/ERAMU could not provide the information relating to amounts of guarantee given/outstanding, the amounts of guarantee fee due/charged/outstanding during the years 2004-05 to 2008-09 and the data was collected from the beneficiary institutions.

We also observed that guarantees of ` 4,401.82 crore were outstanding as on 31 March 2008 as per Finance Accounts whereas it was ` 4,283.09 crore as per Memorandum Explanatory[4] on the Budget. There was thus a difference of ` 118.73 crore due to non-reconciliation of figures of guarantees given by the Government and non-maintenance of centralised database by the FD. This indicated that there was no effective control and monitoring of the guarantees given by the State Government.

The Government may establish a system to watch the guarantees given and consider issuing directions for the maintenance of a centralised database of guarantees given and guarantee fees to be collected for effective monitoring.

[4] Memorandum Explanatory on the Budget is prepared by the State Government under Article 202 of the Constitution in respect of every financial year relating to the estimated receipts and expenditure of the State for that year.

6.2.9 Loans raised against letters of comfort

FD authorised (July 2002) the Power Department to issue the requisite administrative sanctions for raising the loans from the financial institutions which do not require the State guarantees and directed that such cases need not be referred to the FD for approval. The Power Department had issued letters of comfort in favour of the four Power utilities[5]. As per the letters of comfort, the State Government stands committed to enable the concerned utilities to repay the dues against loans raised from the financial institutions. We collected the information from the office of the Financial Commissioner and Principal Secretary, Power Department, Chandigarh and noticed that the Power Department authorised the four power utilities to raise loans amounting to ` 10,813.75 crore from the financial institutions during the period 2004-05 to 2008-09 against letters of comfort.

The Public Account Committee (PAC), in their Sixty Third Report presented in the Legislature in February 2009, observed that a system should be put in place to ensure that no Government guarantee was extended without conditions for the levy and collection of guarantee fee.

However, we observed that the Power Department, in the name of letters of comfort had been extending guarantees only for the repayment of the loans raised by the four power utilities without the proper approval of the Government. Thus, the Power Department had been violating the authorisation given in July 2002 by the FD. This resulted in evasion of the guarantee fee chargeable amounting to ` 216.28 crore as per the details given under:-

(` in crore)

Year	HPGCL	HVPNL	DHBVNL	UHBVNL	Total
2004-05	175	525	120	280	1,100
2005-06	295	150	350	350	1,145
2006-07	994.25	395	295	675	2,359.25
2007-08	550	100	500	1,125	2,275
2008-09	752	400	983.50	1,799	3,934.50
Total	**2,766.25**	**1,570**	**2,248.50**	**4,229**	**10,813.75**

The Government may collect details of such assurances given and take remedial measures to avoid risk of payment of such liabilities created in the name of letters of comfort and ensure that no such guarantee is given without payment of guarantee fee.

[5] Haryana Power Generation Corporation Limited, Panchkula, Haryana Vidyut Parsaran Nigam Limited, Panchkula, Uttar Haryana Bijli Vitran Nigam Limited, Panchkula and Dakshin Haryana Bijli Vitran Nigam Limited, Panchkula (DHBVNL).

6.2.10 Short deposit of guarantee fee

As per instructions issued by the FD in November 2001, the State Government decided to levy a guarantee fee at the rate of two *per cent* from August 2001 on all borrowings of PSUs, Co-operative institutions, local bodies and other concerns to be raised from the financial institutions against the State Government guarantee. In case the guarantee is sought for a single loan which is proposed to be drawn in one or more instalments in one financial year, then the entire guarantee fee is to be charged from the beneficiary institutions at the time of drawal of the first instalment. In case the loan is to be drawn in tranches spread over a period of more than one financial year, the guarantee fee chargeable for the tranches to be drawn in a financial year will be paid by the beneficiary institutions at the time of first drawal of loans in the given financial year.

We collected the information from the offices of the four beneficiary institutions under the administrative control of the Food and Supplies Department and noticed that these four beneficiary institutions raised cash credit limits amounting to ` 9,472.23 crore during the years 2004-05 to 2008-09 against the guarantees provided by the Government. The guarantee fee at the rate of two *per cent* of the amount of loans raised was to be charged. We observed that there were mistakes in computing the guarantee fee, since these agencies had deposited guarantee fee of ` 8.30 crore only as against guarantee fee due amounting to ` 189.45 crore. **Since the administrative department was not maintaining the prescribed records/registers and returns, short deposit of ` 181.15 crore could not be detected and demanded.** This resulted in short deposit of guarantee fee of ` 181.15 crore as mentioned below:

(` in crore)

Sl. No.	Name of Unit	Cash Credit Limit availed from 1 April 2004 to 31 March 2009	Guarantee fee		
			Due	Paid	Short paid
1.	HAFED	4,858.13	97.17	5.75	91.42
2.	HWC	1,500.92	30.01	0.88	29.13
3.	HAIC	1,229.95	24.60	0.22	24.38
4.	CONFED	1,883.23	37.67	1.45	36.22
Total		**9,472.23**	**189.45**	**8.30**	**181.15**

After we pointed out this case in May 2009, guarantee fee of ` one crore had been deposited by the HAFED in July 2009.

The Government may consider prescribing a periodical return to be submitted to the FD for monitoring the correctness of the guarantee fee due and deposited and may take steps to recover the balance dues.

6.2.11 Non-raising of demand of guarantee fee

As per the Co-operative Department instructions dated 11 March 2003, the guarantee fee is chargeable from the Haryana State Co-operative Agriculture and Rural Development Bank Limited, Panchkula at the rate of 0.1 *per cent* from August 2001 to March 2007 and thereafter at the rate of two *per cent* of the amount of loans/funds raised.

During the course of review we observed that no system was adopted in the Co-operative Department to monitor the deposit of guarantee fee by the loanee. The FD had no centralised monitoring mechanism to ensure timely recovery and deposit of the guarantee fee.

We collected the information from the office of the Managing Director, Haryana State Co-operative Agriculture and Rural Development Bank Limited, Panchkula, in June 2009 and noticed that the Government guaranteed loans of ` 1,478.24 crore during the years 2004-05 to 2008-09. Failure of the Co-operative Department to maintain the relevant registers of the guarantees given and the guarantee fee etc. resulted in non-raising/realisation of demand of the guarantee fee of ` 12.46 crore from the bank as per details given below:-

(` in crore)

Year	Date of issue of sanction order (Between)	Amount of loan drawn	Amount of guarantee fee due but not deposited
2004-05	June 2004 to February 2005	448.35	0.45
2005-06	April 2005 to January 2006	233.88	0.23
2006-07	June 2006 to January 2007	218.14	0.22
2007-08	October 2007 to March 2008	229.06	4.58
2008-09	July 2008 to March 2009	348.81	6.98
Total		**1,478.24**	**12.46**

After we pointed out, the Financial Commissioner and Principal Secretary, Co-operation Department, Chandigarh stated in March 2010 that the Managing Director, Haryana State Co-operative Agriculture and Rural Development Bank Limited, Panchkula, was directed to deposit the guarantee fee of ` 12.46 crore at the earliest.

The Government may direct the administrative departments to maintain the prescribed register properly to ensure timely assessment and demand of guarantee fee.

6.2.12 Lack of internal control and monitoring

FD/administrative departments which provide the Government guarantees should maintain the Guarantee Register, Demand and Collection Register and Treasury Remittance Register for recording all the transactions relating to the guarantee fee. These registers were important tools for monitoring the receipt of guarantee fee.

A mention of "Failure of internal control in the department" was earlier made in paragraph 6.2.7 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (Revenue Receipts) – Government of Haryana. The FD, in their reply submitted to the PAC, stated that the concerned administrative departments were responsible for maintaining the guarantee register. However, with effect from 1 April 2008, FD/ERAMU would also maintain a guarantee register for monitoring and cross checking etc. We noticed that the requisite registers had neither been maintained by the FD/ERAMU nor by the administrative heads of departments (August 2010).

We had made a recommendation in the review on Receipts from the guarantee fee in the Report of the Comptroller and Auditor General of India (Revenue Receipt) for the year ended 31 March 2003 that a strong internal control system was required to be developed for levy and collection of guarantee fee. This would also include submission of returns from field offices to higher offices. The PAC in their Sixty Third Report presented in the Legislature in February 2009, observed that the recommendations made by the Accountant General are valid and the same be implemented in letter and spirit.

During the course of review, we noticed that no records of guarantees extended and guarantee fee collected/to be collected were maintained. No system was developed for levy and collection of guarantee fee and submission of returns from field offices to controlling offices. Hence recommendations made by the PAC have not been followed.

6.2.13 Conclusion

Audit noticed that the State Government had no systematic provisions for the levy and collection of guarantee fee. Neither the FD nor the concerned administrative departments which provide guarantees to the various beneficiary institutions were maintaining the relevant records relating to the guarantees given. The State Government had no knowledge of liabilities created in the name of letters of comfort. Failure of the administrative departments to enforce the internal control systems to ensure prompt levy and collection of guarantee fee resulted in non/short raising/realisation of demand of fee.

6.2.14 Recommendations

Apart from the recommendations given under the paragraphs, the Government may also consider taking following steps for effective collection of the guarantee fee and monitoring the guarantees given:

- State Government may consider introducing an Act regarding ceiling on guarantees extended and levy and collection of guarantee fee. The Government may also consider levying of guarantee fee each year on the outstanding amount as well as interest on non/delayed payment of guarantee fee and to prescribe periodical returns/reports to monitor the levy and collection of guarantee fee and to prepare centralised database in the FD and concerned Administrative Departments;

- a system should be put in place to ensure that no Government guarantee is extended without conditions for levy and collection of guarantee fee; and
- a strong internal control system may be developed for prompt levy, assessment and collection of guarantee fee.

6.3 Other audit observations

During scrutiny of records in departmental offices relating to Town and Country Planning, Public Works Department (Public Health), Mines and Geology, Co-operation and other departments, we noticed several cases of non-observance of provisions of Government order, non-compliance of provisions of the Haryana Development and Regulation of Urban Areas (HDRUA) Act/Rules, Punjab Minor Mineral Concession Rules and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. There is a need for the Government to improve the internal control system so that such instances/omissions can be detected, corrected and avoided.

TOWN AND COUNTRY PLANNING DEPARTMENT

6.4 Non-recovery/realisation of licence fee

Non-compliance of provisions of the HDRUA Act/Rules, by the Director Town and Country Planning, Haryana (DTCP) in some cases resulted in non-recovery/realisation of licence fee of ` 2.72 crore.

6.4.1 Under Rule 12 of the HDRUA Rules, 1976, the licence granted shall be valid for a period of two years from the date of its grant during which period all development works in the colony shall be completed and certificate of completion obtained from the Director. In case a coloniser[6] fails to complete the development works within the specified period for reasons beyond his control, he may apply to the Director for renewal of licence at least thirty days before the expiry of the licence on payment of renewal fee at the rate of 10 *per cent* of prescribed license fee. Further Rule 18 of the Rules ibid provides that the Director can cancel the license, in case the execution of the layout plans and the construction or other works is not proceeding according to the licence granted under Rule 12 or is below specification or is in violation of the provisions of this Rule or any of law or rules for the time being in force, after giving reasonable opportunity.

During test check of the records of the DTCP in November 2008, we noticed that the Director granted licences to two colonisers in January 2006 for the development of areas (9.718 acre) in Gurgaon and Sonipat for the period of two years and colonisers paid licence fee of ` 13.55 crore. These colonisers had not completed the development works upto January 2008. Neither the colonisers had applied for renewal of licences nor did the department initiate any action i.e. to issue notices or cancel the licences under the provisions of the Rules. The omission to do so resulted in non-recovery of licence fee for renewal of licence of ` 1.36 crore (10 *per cent* of licence fee of ` 13.55 crore).

[6] 'Coloniser' means an individual, company or association, body of individuals, whether incorporated or not, owning or acquiring or agreeing, land for converting it into a colony and to whom a licence has been granted under the HDRUA Act, 1975.

After we pointed out this case in November 2008, the Director stated in January 2010 that licence of Gurgaon coloniser was renewed in November 2009 and the licensee deposited ` 1.80 crore (including interest of ` 33.34 lakh) against licence fee of ` 1.22 crore pointed out in audit. The coloniser of Sonipat had not applied for renewal of licence fee and notice was being issued. We have not received further report in this case (August 2010).

6.4.2 Under Section 3 (1) of the HDRUA Act, 1975 read with Rule 3 of the HDRUA Rules, 1976, any owner of land desiring to convert his land into a colony may apply to the Director for the grant of licence to develop a colony in the prescribed form and pay for it such fee and conversion charges as may be prescribed. The Government revised the rates of licence fee in respect of residential (plotted), residential (group housing) and commercial colonies, in April 2008.

During test check of the records of DTCP in August 2009, we noticed that five owners of land applied (between December 2006 and January 2008) for conversion of their land in Faridabad and Gurgaon. The colonisers paid licence fee amounting to ` 54.32 crore between December 2007 and April 2008. The department had proposed to revise the licence fee in November 2007 which, after approval in December 2007, was notified in April 2008. The department issued letter of intents (LOIs) to the colonisers between 13 December 2007 and 2 April 2008 without inserting a condition for payment of differential amount of licence fee as revision of rates was under consideration before or at the time of grant of licence. However, the department granted approval for licences in May and July 2008 on the basis of licence fee received at pre revised rates along with the applications though the revised rates have been applicable from April 2008. The negligence on the part of the Department to insert a clause in the LOI to recover the differential amount of the licence fee as a result of revision of the rates deprived the Government of revenue of ` 1.36 crore.

After we pointed out this case in August 2009, the department stated in January 2010 that though the licences were granted in May and July 2008 but the licensees had made the compliance of LOI within prescribed period and deposited the fee and charges as per the terms and conditions of the LOI. Thus, licence fee as applicable on the date of issue of LOI was charged correctly. The fact remains that though the department was aware of the revision in the rates of the licence fee, it failed to protect the Government revenue.

We pointed out the matter to the department in November and December 2009 and reported to the Government in May 2010; we are yet to receive their reply (August 2010).

PUBLIC HEALTH DEPARTMENT

6.5 Non-recovery of water charges

The Department did not observe the provisions of Government order of November 2006 in 224 cases which resulted in non-recovery of water charges of ` 56.54 lakh.

As per Haryana Government, Urban Development Department order dated 10 November 2006, all the existing water supply un-metered connections in commercial, institutional or industrial establishment shall be converted into metered connections by the occupants in a period of three months from the date of order otherwise the rate charged shall be minimum of ` 1,000 per month and as assessed by the concerned Executive Engineer of the Public Health department.

During test check of records of the offices of four[7] Executive Engineer of Public Health Engineering Division for the years from 2006-07 to 2008-09 in August 2009, we noticed that there were 224 un-metered water supply connections of commercial, institutional and industrial establishments as of 10 November 2006. All these existing un-metered connections were required to be converted into metered connections by the occupants of these establishments by 10 February 2007. Neither the occupants of these establishments had got their un-metered connections converted into metered connections even up to March 2009 nor the department had taken efforts for installing meters. Further, the department had not raised water charges at the prescribed minimum rate. This resulted in non-recovery of water charges at minimum rate, aggregated to ` 56.54 lakh for the period between December 2006 and March 2009.

After we pointed out these cases in August 2009, the Executive Engineer, Public Health Division No. 2, Sirsa stated in January 2010 that ` 26,154 had been recovered and final notices were being issued to recover the balance amount of ` 33.84 lakh. The Executive Engineers, Public Health Engineering Division, Charkhi Dadri, Rewari and Tosham (Bhiwani) stated in January 2010 that notices had been issued to the concerned parties to recover the outstanding amount of ` 22.44 lakh. We have not received further report on recovery in these cases (August 2010).

We pointed out the matter to the Chief Engineer, Public Health Department in September 2009 and reported to the Government in March 2010; we are yet to receive their reply (August 2010).

[7] Executive Engineer, Public Health Engineering Division, Charkhi Dadri; Executive Engineer, Public Health Engineering Division, Rewari; Executive Engineer, Public Health Engineering Division No. 2, Sirsa and Executive Engineer, Public Health Engineering Division, Tosham (Bhiwani).

MINES AND GEOLOGY DEPARTMENT

6.6 Non-recovery of royalty and interest

The Mines and Minerals (Development and Regulation) Act and Punjab Minor Mineral Concession Rules provide for levy of royalty on mineral removed from leasehold area and levy of interest on belated payment of royalty.

We noticed that the Department did not observe the provisions of the above Rules in 133 cases which resulted in non-realisation of royalty/interest of ` 29.08 lakh.

Rule 24 of the Punjab Minor Mineral Concession Rules, 1964, as applicable to the State of Haryana, provides that brick kiln owners shall pay annual amount of royalty at the prescribed rate in advance by 30th April of every year. State Government revised the rates of fixed royalty of various categories of brick kiln owners from June 2005. In case of default, interest at the rate of 24 *per cent* per annum is chargeable for the period of default. Brick kiln owners register is maintained at each mining office for levy and collection of royalty. The permits of such brick kiln owners are required to be cancelled by the department who do not pay royalty by giving one month's notice and any sum due from the permit holders on account of royalty and interest thereon is recoverable as arrears of land revenue. The Assistant Mining Engineers/ Mining Officers are responsible for monitoring recovery of outstanding dues.

During test check of records of five[8] offices of Assistant Mining Engineer/ Mining Officer between November 2008 and November 2009, we noticed that 133 brick kiln owners were issued permits between April 2006 and April 2007 for the period of two years. The brick kiln owners were required to pay royalty for the years 2007-08 and 2008-09 by 30 April 2007 and 30 April 2008 respectively. Though a period ranging between 18 and 33 months had elapsed upto December 2009, yet royalty of ` 19.44 lakh was neither paid by the brick kiln owners nor was it demanded by the Assistant Mining Engineers/Mining Officers. No action to cancel the permits and/or to recover the dues as arrears of land revenue was taken. Lack of action on the part of the department resulted in non-realisation of revenue of ` 29.08 lakh (including interest[9] of ` 9.64 lakh).

After we pointed out these cases between November 2008 and November 2009, the Assistant Mining Engineers/Mining Officers[8] stated between August 2009 and January 2010 that royalty of ` 2.32 lakh (including interest of ` 70,240) had been recovered in 11 cases between December 2008 and December 2009 and notices had been issued or efforts were being made to recover the balance amount of ` 26.76 lakh from the brick kiln owners. We have not received further progress of recovery in these cases (August 2010).

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8 Assistant Mining Engineers: Faridabad and Sonipat; Mining Officers: Ambala, Jind and Rohtak.

9 Interest calculated upto December 2009.

We pointed out the matter to the Director, Mines and Geology Department between December 2008 and December 2009 and reported to the Government in March 2010; we are yet to receive their reply (August 2010).

Chandigarh **(SUSHAMA V. DABAK)**
The **Principal Accountant General (Audit) Haryana**

Countersigned

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

Annexure-I

(Refer Paragraph No. 1.2.5)

Position of paragraphs which appeared in the Audit Reports and those pending discussion/replies not received as on 30 June 2010.

Name of tax		2004-05	2005-06	2006-07	2007-08	2008-09	Total
Taxes on Sales, Trade etc.	Paras appeared in the AR/ pending discussion in the PAC	8	9	8	9	13	**47**
	Paras replies not received	0	9	1	0	13	**23**
Taxes on Motor Vehicles	Paras appeared in the AR/pending discussion in the PAC	1	3	4	8	2	**18**
	Paras replies not received	0	0	0	5	2	**7**
Stamp duty and Registration fee	Paras appeared in the AR/pending discussion in the PAC	4	3	3	5	5	**20**
	Paras replies not received	4	3	3	5	5	**20**
State Excise	Paras appeared in the AR/pending discussion in the PAC	4	1	2	2	4	**13**
	Paras replies not received	0	1	2	0	4	**7**
Others	Paras appeared in the AR/pending discussion in the PAC	4	4	4	7	4	**23**
	Paras replies not received	0	2	3	6	4	**15**
Total	**Paras appeared in the AR/pending discussion in the PAC**	**21**	**20**	**21**	**31**	**28**	**121**
	ATNs to Paras included in AR not received	**4**	**15**	**9**	**16**	**28**	**72**

Annexure-II

(Refer Paragraph No. 1.2.5)

Details of outstanding recommendations of Public Accounts Committee on which the Government is yet to take final decision.

Sr. No.	PAC Report No.	Total number of outstanding recommendations	Period of Audit Report
1.	19	1	1977-78
2.	22	5	1979-80
3.	23	5	1980-81
4.	25	4	1981-82
5.	26	3	1982-83
6.	28	2	1983-84
7.	29	8	1984-85
8.	32	6	1985-86
9.	34	13	1986-87
10.	36	7	1987-88
11.	38	15	1988-89
12.	40	26	1989-90
13.	42	32	1990-91, 1991-92
14.	44	43	1990-91, 1991-92
15.	46	10	1993-94
16.	48	10	1994-95
17.	50	43	1995-96
18.	52	31	1996-97
19.	54	46	1997-98
20.	58	64	1998-99, 1999-2000
21.	60	42	2000-01
22.	62	46	2001-02
23.	63	54	2002-03
24.	64	57	2003-04
Total		**573**	

Annexure-III

(Refer Paragraph No. 1.3.1)

Details of outstanding Inspection Reports as on 31 March 2010.

Year	Number of outstanding IRs	Para	Amount (` in crore)
1991-92	3	4	0.02
1992-93	2	3	0.08
1993-94	4	4	0.03
1994-95	3	5	0.08
1995-96	1	5	0.03
1996-97	6	15	0.94
1997-98	6	10	0.32
1998-99	5	9	0.32
1999-2000	10	18	22.90
2000-01	13	28	1.56
2001-02	10	13	3.16
2002-03	19	39	5.59
2003-04	16	48	3.40
2004-05	18	83	7.72
2005-06	25	137	12.61
2006-07	24	172	243.65
2007-08	26	242	47.77
2008-09	31	326	115.99
2009-10	7	47	4.42
Total	**229**	**1,208**	**470.59**

Annexure-IV

(Refer Paragraph No. 1.3.2.2)

Details of reviews and recommendations included in the Audit Reports for the year 2002-03 to 2008-09.

Year of Audit Report	Name of the Review	Details of recommendations made
2002-03	Pendency of appeals at various levels and its impact on revenue collection	To improve the effectiveness of the system, the State Government may consider: ➢ Taking suitable measures to dispose off appeal cases promptly and to clear the accumulated arrears; ➢ Monitoring the receipts and disposal of appeals and remand cases at the apex level through periodical returns; ➢ Prescribing time limit for communication of orders passed by the appellate authority to enable timely finalisation by the assessing authority (AAs); and ➢ Developing a internal control system to ensure compliance with instructions issued by the Government/Department.
2003-04	Delay in assessments and their impact on revenue and collection of sales tax demands	To improve the effectiveness of the system, the State Government may consider: ➢ Inserting the provisions in the Act/Rules for time bound assessment of cases; ➢ Prescribing time limit for communication of orders passed by the AAs and demand notices to enable timely realisation of Government dues; and ➢ Developing a strong internal control system to ensure compliance with instructions issued by the Government/Department.
2004-05	Delay in disposal of remand and revision cases	For speedy settlement of cases and to improve the effectiveness of the system, the State Government may consider: ➢ Maintaining the records like appeal register of remand cases essential for monitoring the remand cases at Joint Excise and Taxation Commissioner (Appeals) {JETC (Appeals), DETC, AA – wise as per the provision of the Act. ➢ Prescribing time limit for finalisation of remand cases as well as for communication of orders passed by the appellate authority to the AA.
2005-06	Evasion in sales tax	With a view to curb the incidence of evasion, the State Government may consider: ➢ Ensuring adequate and regular survey every year to bring unregistered dealers into tax net, ➢ Ensuring cross verification of transactions against declaration forms with other circles/States before finalising the assessment; ➢ Ensuring before allowing exemptions/ concessional rate of tax the transactions are supported by prescribed statutory declaration forms properly filled in and with evidence; and

Year of Audit Report	Name of the Review	Details of recommendations made
		➢ Developing internal control system to monitor proper functioning of the field office of department to plug leakage of revenue.
2006-07	Levy and collection of sales tax	For proper and effective assessments and collection of sales tax, the State Government may consider: ➢ Fixing norms for monthly disposal of sales tax assessment cases as HGST Act has been repealed since April 2003; and ➢ Brining about amendments in the Act/Rules to fix time limit for initiation of recovery proceedings.
2007-08	Exemptions and concessions under Sales Tax/VAT Act	The State Government may consider: ➢ Inserting similar provisions regarding tax deposited in the declaration form VAT C-4 as contained in declaration form ST-14 and authentication/issuance of these forms by the department to ensure genuineness and correctness of tax deposited by the selling dealers while allowing input tax credit (ITC); ➢ Ensuring cross verification of transactions against declaration forms with other circles/State before finalising the assessments and also prescribing reporting to the superior authorities of the results of such cross verification; ➢ Prescribing submission of list of sales along with evidence/proof of sales of PVC pipes and related goods for claiming exemption/tax free sales; and ➢ Setting up an internal audit wing in the Sales Tax Department to ensure timely detection and correction of errors in assessment, levy and collection of sales tax revenue and refund cases.
2008-09	Recovery of sales tax/VAT in arrears	For proper and effective collection of arrears of sales tax/VAT, the State Government may consider: ➢ Strengthening internal audit wing to ensure timely detection and correction of arrears in assessment, levy and collection of sales tax/VAT revenue; ➢ Evolving a suitable mechanism for the collection of dues by closely monitoring their initiation and completion of recovery proceedings; ➢ Prescribing a time limit for (i) initiating recovery proceedings for attachment and disposal of attached property (ii) the issue of revenue recovery certificate and adherence to such time limit should be closely monitored to avoid pendency of revenue collection; ➢ Evolving a suitable mechanism to ensure proper co-ordination between the departmental officers within the State to facilitate early realisation of the arrears locked up under revenue recovery proceeding; and ➢ Fixing target for the collection of arrears and closely monitoring the performance of both the AAs and the Collectors against such target.

Annexure-V
(Refer Paragraph No. 1.4)

Audit plan for the year 2009-10.

Sr. No.	Nature of receipts	Total no. of auditable units	A-Annual B-Biannual T-Triennial Q-Quadrille				No. of units planned during the year 2009-10				Total unit planned during the 2009-10
			A	B	T	Q	A	B	T	Q	
1.	0039-State Excise	36	36	-	-	-	36				36
2.	0030- Stamp duty and Registration fee	182	182	-	-	-	182	-	-	-	182
3.	0041-Taxes on vehicles	72	72	-	-	-	72	-	-	-	72
4.	0042-Passengers and Goods tax	23	23	-	-	-	23	-	-	-	23
5.	0045-purchase tax on sugar cane	13	13	-	-	-	13	-	-	-	13
6.	0853-Mines and minerals	16	16	-	-	-	16	-	-	-	16
7.	0217-Town & Country Planning	1	1	-	-	-	1	-	-	-	1
8.	0040-Sales Tax	63	33	30	-	-	33	15	-	-	48
9.	0406-Forestry and wild life	48	25	19	4	-	25	8	1	-	34
10.	0055-Police	48	-	48	-	-	-	-	-	-	-
11.	0043-Electricity duty	4	-	4	-	-	-	-	-	-	-
12.	0045-Entertainment	22	-	22	-	-	-	11	-	-	11
13.	0425-Cooperation	33	-	33	-	-	-	17	-	-	17
14.	0701-Irrigation	89	-	-	89	-	-	-	30	-	30
15.	0215-Public Health	46	-	-	46	-	-	-	15	-	15
16.	0029- Land Revenue	136	-	-	136	-	-	-	43	-	43
17.	0039-Pharmacy	20	-	-	20	-	-	-	7	-	7
18.	0059-PWD (B&R)	59	-	-	-	59	-	-	-	15	15
19.	0851-Industry	41	-	-	-	41	-	-	-	10	10
20	0401-Agriculture	19	-	-	-	19	-	-	-	5	5
	Total	**971**	**401**	**156**	**295**	**119**	**401**	**51**	**96**	**30**	**578**