

**REPORT OF THE
COMPTROLLER AND AUDITOR
GENERAL OF INDIA**

**on
REVENUE RECEIPTS**

for the year ended MARCH 2012

**Government of Kerala
Report No. 1 of the year 2013**

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Preface

This Report for the year ended 31 March 2012 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 tax on sales, trade etc., taxes on agricultural income, stamp duty and registration fee, taxes on vehicles, land revenue and building tax, taxes on electricity duty 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 audit of records during the year 2011-12 as well as those which came to notice in earlier years but could not be included in previous Reports.

Overview

This Report contains 39 paragraphs including one Performance Audit on "Levy and Collection of VAT on Evasion Prone Commodities/Areas in Commercial Taxes Department" relating to non/short levy of tax, interest and penalty etc; involving ₹ 304.66 crore. Some of the major findings are mentioned below:

I. General

Total revenue receipts of the State Government for the year 2011-12 amounted to ₹ 38,010.36 crore against ₹ 30,990.95 crore for the previous year. 74 *per cent* of this was raised by the State through tax revenue (₹ 25,718.60 crore) and non-tax revenue (₹ 2,592.18 crore). The balance 26 *per cent* was receipt from the Government of India as State's share of divisible Union taxes (₹ 5,990.36 crore) and grants-in-aid (₹ 3,709.22 crore).

(Paragraph 1.1.1)

As on 30 June 2012, 2,751 Inspection Reports (IRs) in respect of various departments containing 20,629 observations involving money value of ₹ 2,102.05 crore were outstanding. The number of outstanding audit observations increased by 37 *per cent* during the two year period.

(Paragraph 1.3.1)

II. Taxes on sales, trade etc.

A Performance Audit on "Levy and Collection of VAT on Evasion Prone Commodities/Areas in Commercial Taxes Department" revealed the following:

- Cross verification of the data obtained from State Pollution Control Boards, Mining and Geology Department and Departments of Industries & commerce revealed that 378 dealers had not registered themselves with the Commercial Taxes Department (CTD).

(Paragraph 2.11.12.2)

- Cross verification of the information obtained from the Controller General of patents and Trademarks, Customs Department with the data available with the CTD revealed that 56 dealers had suppressed their turnovers resulting in short levy of tax of ₹ 211.26 crore.

(Paragraph 2.11.12.4)

- In the Special Circle, Thiruvananthapuram, the Kerala State Road Transport Corporation received ₹ 6.15 crore as income from advertisement on bus bodies during the period 2006-07 to 2010-11 but did not assess the same to tax. This resulted in non-levy of tax and interest of ₹ 34 lakh.

(Paragraph 2.11.12.6)

- The Department had not fixed the floor rate for Day old chicks (DOC). The farmers paid taxes at lesser rates on interstate rates than the rate fixed by KEPC. This resulted in loss of tax of ₹ 3.84 crore.

(Paragraph 2.11.12.7(i))

- Despite reports of the Investigation Wing of the CTD regarding tax evasion by use of bogus C/F declaration forms, the Department did not take any action for realisation of tax of ₹ 5.03 crore.

(Paragraph 2.11.12.9)

- The floor rate for plywood fixed in February 2007 was proposed to be revised in August 2009 with a hike of 15 *per cent* but these were not revised till November 2011. The delay in revision of floor rates resulted in forgoing of revenue of ₹ 2.02 crore during 2010-11.

(Paragraph 2.11.12.10)

Transaction Audit

In three offices mistake in annual return with reference to audited figures in four cases resulted in short levy of tax of ₹ 5.97 crore.

(Paragraph 2.13.1.1)

Incorrect computation of taxable turnover of a dealer as ₹ 9.12 crore instead of ₹ 33.41 crore, resulted in short levy of tax, cess and interest of ₹ 3.74 crore.

(Paragraph 2.13.1.2)

Non-inclusion of turnover on rental charges of energy meters collection by KSEB in the annual return resulted in non-levy of tax, cess and interest of ₹ 43.16 crore.

(Paragraph 2.13.1.12)

The subsidy/discount received in ten cases was not reckoned as turnover resulting in short levy of tax of ₹ 2.07 crore.

(Paragraph 2.13.2)

Accepting turnover of ₹ 38.49 crore instead of ₹ 47.43 crore by the assessing authority resulted in Short levy of tax of ₹ 21.24 lakh.

(Paragraph 2.13.14.1)

Non-levy of tax on sales of ₹ 1.07 crore relating to High Speed Diesel resulted in short realisation of tax ₹ 48.49 lakh.

(Paragraph 2.13.15.1)

III. Taxes on Agricultural Income

Non-inclusion of subsidy of ₹ 3.64 crore as taxable agriculture turnover resulted in short realisation of tax of ₹ 1.82 crore.

(Paragraph 3.8.1)

Non-levy of tax on the cost of failed plantations of ₹ 3.04 crore resulted in short realisation of tax of ₹ 1.52 crore.

(Paragraph 3.8.2.1)

IV. Stamp Duty and Registration Fees

The splitting the transactions resulted under valuation of a document to the tune of ₹ 4.72 crore involving stamp duty and registration fee of ₹ 56.68 lakh.

(Paragraph 4.8.1)

Due to incorrect valuation of 41 instruments short levy of stamp duty and registration fee aggregating to ₹ 27.83 lakh was noticed.

(Paragraph 4.8.2)

V. Taxes on Vehicles

The Department at the time of reclassification and assigning new registration of vehicles did not levy tax in 432 cases and levied it short in 1,152 cases. This resulted in short levy of tax of ₹ 1.24 crore

(Paragraph 5.8.1)

Non-imposition of fine on overloaded vehicles worked out to ₹ 24.86 lakh in 28 cases.

(Paragraph 5.8.2)

VI. Land Revenue and Building Tax

Collection/ service charges amounting to ₹ 18.74 lakh were either not realised or were realised short from the defaulters by the RR authority in three *taluk* offices and one Dy. Collector's office

(Paragraph 6.8.1)

Application of incorrect rate of two *per cent* instead of five *per cen* while computing the lease rent for the period from 1 April 2004 to 31 March 2008 resulted in short realisation of lease rent of ₹ 22.45 lakh in one *Taluk* office.

(Paragraph 6.8.2)

Luxury tax was not demanded on 974 residential buildings. This resulted in non-realisation of luxury tax of ₹ 36.24 lakh.

(Paragraph 6.8.3)

VII. Taxes and Duties on Electricity

Non-levy of electricity surcharge on 4,21,63,172 units of electrical energy sold to various HT consumers during 2010-11 aggregated to in ₹ 11.49 lakh including interest.

(Paragraph 7.6)

Non-payment of electricity duty on self consumption by Thrissur Corporation worked out to ₹ 11.07 lakh including interest.

(Paragraph 7.7)

VIII. Non-Tax Receipts

A – Lotteries

118 multiple claims were submitted for the period 2008-2011 by the prize winners against 91 prize winning tickets, of these 51 cases are still pending finalisation with the Department.

(Paragraph 8.1.5.2)

30,262 prizes involving ₹ 25.80 lakh were given in excess of the number of prizes offered in 66 draws.

(Paragraph 8.1.5.3)

The reliability of the software used by the Department was not tested even after a lapse of four years after its implementation by a competent authority to ensure that all the system controls exist.

(Paragraph 8.1.5.4)

69 prizes amounting to ₹ 3.94 crore were won repeatedly by persons residing at 30 households in Mumbai pointing towards the possibility of fraudulent practice in claiming prizes.

(Paragraph 8.1.5.6)

B – Interest Receipts

Non-realisation of interest on loans sanctioned by Government to various public sector undertakings worked out to ₹ 206.58 crore.

(Paragraph 8.2)

CHAPTER-I: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Kerala during the year 2011-12, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(₹ in crore)

Sl. No.	Particulars	2007-08	2008-09	2009-10	2010-11	2011-12
1.	Revenue raised by the State Government					
	• Tax revenue	13,668.95	15,990.18	17,625.02	21,721.69	25,718.60
	• Non-tax revenue ¹	1,209.55 (1,078.00)	1,559.29 (1,390.00)	1,852.22 (1,633.22)	1,930.79 (1,739.58)	2,592.18* (2,228.97)
	Total	14,878.50 (14,746.95)	17,549.47 (17,380.18)	19,477.24 (19,258.24)	23,652.48 (23,461.27)	28,310.78 (27,947.57)
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	4,051.70	4,275.52	4,398.78	5,141.85	5,990.36
	• Grants-in-aid	2,176.59	2,687.19	2,233.38	2,196.62	3,709.22
	Total	6,228.29	6,962.71	6,632.16	7,338.47	9,699.58
3.	Total revenue receipts of the State Government (1 and 2)	21,106.79 (20,975.24)	24,512.18 (24,342.89)	26,109.40 (25,890.40)	30,990.95 (30,799.74)	38,010.36 ² (37,647.15)
4.	Percentage of 1 to 3	70	72	75	76	74

* Includes ₹ 47.70 crore (treated as non-tax revenue), the outstanding central loans under Central Plan Schemes and Centrally Sponsored Schemes advanced to State Governments by the Ministries other than Ministry of Finance written off as per the recommendation of the Thirteenth Finance Commission (XIII FC).

Source: Finance Accounts.

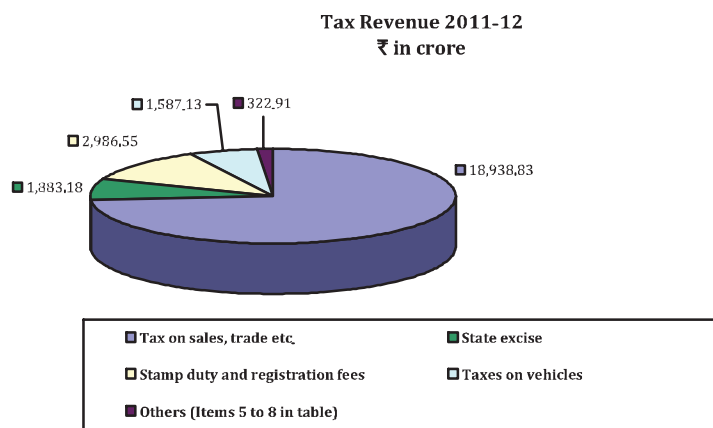
The above table indicates that during the year 2011-12, the revenue raised by the State Government (₹ 28,310.78 crore) was 74 *per cent* of the total revenue receipts against 76 *per cent* in the preceding year. The balance 26 *per cent* of receipts during 2011-12 was from the Government of India.

¹ The difference between the figures shown in column and bracket represent expenditure on prize winning tickets of lotteries conducted by the Government.

² For details please see Statement No. 11 – Detailed accounts of revenue by minor heads in the Finance Accounts of Kerala for the year 2011-12. Figures under the major heads 0020 – Corporation tax, 0021 – Taxes on income other than corporation tax, 0028 – Other taxes on income and expenditure, 0032 – Taxes on wealth, 0037 – Customs, 0038 – Union excise duties, 0044 – Service tax and 0045 – Other taxes and duties on commodities and services – Share of net proceeds assigned to States booked in the Finance Accounts under A – Tax revenue has been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

1.1.2 The following table presents the details of tax revenue raised during the period 2007-08 to 2011-12:

Sl. No.	Head of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase(+)/ decrease (-) in 2011-12 over 2010-11
		₹ in crore					
1.	0040 - Tax on sales, trade etc.	9,371.76	11,377.13	12,770.89	15,833.11	18,938.83	19.62
2.	0039- State excise	1,169.25	1,397.64	1,514.81	1,699.54	1,883.18	10.81
3.	Stamp duty and Registration fees						
	0030-01 - Stamps - judicial	81.89	71.25	83.52	75.30	79.66	5.79
	0030-02 - Stamps – non-judicial	1,607.85	1,580.94	1,495.26	1,884.01	2,153.80	14.32
	0030-03 - Registration fees	338.23	350.81	317.63	593.18	753.09	26.96
4.	0041 - Taxes on vehicles	853.17	937.45	1,131.10	1,331.37	1,587.13	19.21
5.	0043 - Taxes and duties on electricity	39.04	56.00	24.78	20.71	21.28	2.75
6.	0022 - Taxes on agricultural income	22.05	11.97	27.73	46.97	42.86	(-) 8.75
7.	0029 - Land revenue	47.21	47.56	53.93	55.97	60.75	8.54
8.	Others	138.50	159.43	205.37	181.53	198.02	9.08
Total		15,990.18	13,668.95	17,625.02	21,721.69	25,718.60	18.40



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

Tax on sales, trade etc.: The increase was due to increase in price, e-filing, e-payments, KVATIS³ scrutiny and improvement of enforcement machinery.

State Excise : The variation was due to increase in sale of Indian made foreign liquor (IMFL) and beer.

Stamps and registration fees : The increase was due to introduction of fair value of land and increase in number of documents registered.

Taxes on vehicles : The increase was due to increase in vehicle population, enhancement of tax rate and intensive field check to detect tax evasion.

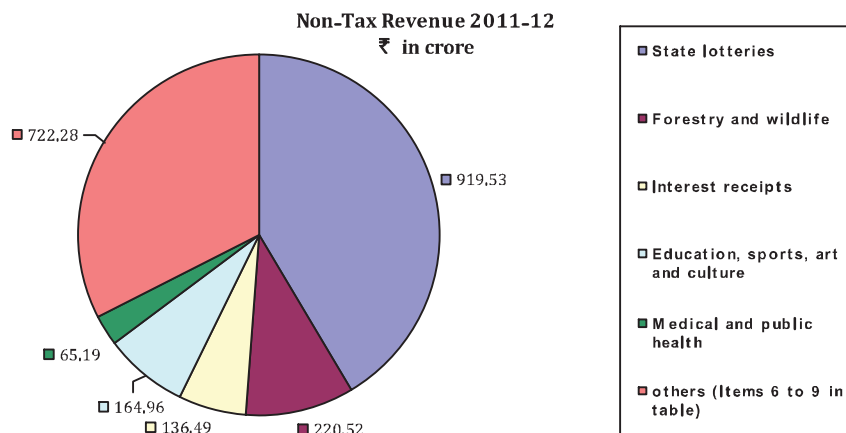
The other departments did not inform (December 2012) the reasons for variations, despite being requested (April 2012).

1.1.3 The following table presents the details of the non-tax revenue raised during the period 2007-08 to 2011-12:

Sl. No.	Head of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase(+)/ decrease (-) in 2011-12 over 2010-11
		₹ in crore					
1.	0075-103 - State lotteries ⁴	193.70	312.10	405.07	380.25	919.53	141.82
2.	0406 - Forestry and wildlife	154.45	223.71	272.80	274.10	220.52	(-) 19.55
3.	0049 - Interest receipts	69.65	83.69	152.50	171.47	136.49	(-) 20.40
4.	0202 - Education, sports, art and culture	100.89	130.24	130.62	150.83	164.96	9.37
5.	0210 - Medical and public health	20.02	38.58	34.43	63.46	65.19	2.73
6.	0401 - Crop husbandry	10.91	15.04	7.88	10.03	11.55	15.15
7.	0403 - Animal husbandry	5.26	2.96	3.11	3.97	4.06	2.27
8.	0059 - Public works	3.28	3.80	6.54	6.59	4.10	(-) 37.78
9.	Others	519.84	579.88	620.27	678.88	702.57	3.49
Total		1,390.00	1,078.00	1,633.22	1,739.58	2,228.97	28.13

³ Kerala Value Added Tax Information System

⁴ From gross receipts of ₹ 1,282.74 crore, expenditure of ₹ 363.21 crore on prize winning tickets has been deducted, but other expenditure like commission to agents (₹ 415.20 crore), establishment expenses (₹ 97.51 crore) etc. have not been deducted.



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

State lotteries : The Government introduced lotteries with draws on all days. Also other State lotteries were banned in the State. This resulted in the increase of revenue collection during 2011-12.

Forestry and Wildlife : The decrease was due to the delay in approval of working plans of Forest divisions and shortage in supply of timber.

The other departments did not inform (December 2012) the reasons for variations, despite being requested (April 2012).

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 in respect of some principal heads of revenue amounted to ₹ 10,272.91 crore of which ₹ 3,767.72 crore were outstanding for more than five years as mentioned below:

(₹ in crore)			
Sl. No.	Department	Amount of arrears as on 31 March 2012	Arrears outstanding for more than 5 years
1.	Commercial taxes department	5,458.64	1,641.14
	An amount of ₹ 3,274.86 crore was due from individuals, private firms and private companies, ₹ 1,915.06 crore was due from Public Sector Undertakings (PSUs) of Government of India and ₹ 266.04 crore was due from PSUs of Government of Kerala. The remaining amount was due from Government of India, State Government and Local Bodies of the State.		
2.	Forest	247.56	143.25
	An amount of ₹ 184.49 crore was due from PSUs of Government of Kerala, ₹ 48.50 crore was due from PSUs of Government of India and ₹ 10.69 crore was due from individuals, private companies etc. The remaining amount was due from Government of India, State Government and Karnataka State Forest Corporation.		
3.	Local Fund Audit	657.18	136.87
	The arrear represents audit charge due from various local bodies.		
4.	Police	62.28	23.58
	₹ 51.70 crore and ₹ 5.67 crore were due from Central and State PSUs respectively.		

Sl. No.	Department	Amount of arrears as on 31 March 2012	Arrears outstanding for more than 5 years
	₹ 3.14 crore was due from Government of India and ₹ 1.30 crore was due from other State Governments. The remaining amount of ₹ 1.47 crore was due from individuals and private firms.		
5.	Stationery	12.67	8.74
	An amount of ₹ 2.89 crore was due from Education Department (Pareeksha Bhavan), ₹ 1.23 crore was due from Director of Civil Supplies and ₹ 1.15 crore was due from Election Department. The remaining amount of ₹ eight lakh was due from various State Government Departments.		
6.	Electrical Inspectorate	3,663.32	1,648.77
	An amount of ₹ 3,646.06 crore was due from PSUs of Government of Kerala. ₹ 12.99 crore was due from local bodies and ₹ 4.37 crore was due from individuals, private firms, private companies etc.		
7.	Excise	167.70	165.25
	An amount of ₹ 164.06 crore was due from individuals, private firms, private companies etc. and ₹ 3.64 crore was due from PSUs of Government of Kerala.		
8.	Labour	0.67	0.02
	The entire arrear was due from individuals, private firms, private companies etc.		
9.	Port	2.89	0.09
	The amount was due from individuals, private firms, private companies etc.		
	Total	10,272.91	3,767.72

1.3 Response of the departments/Government towards audit

1.3.1 Response to Inspection Reports

Periodical inspection of the Government departments were conducted to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. Our inspections are followed up with inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot. Our inspection reports are issued to the head of the offices inspected with copies to the next higher authorities for taking prompt corrective action. As per Article 63(c) of Kerala Financial Code Vol. I, the first replies to inspection reports should be sent within four weeks from the date of receipt of the inspection report. The first replies should not be delayed on any account. In respect of those particular paras for which final replies could not be furnished to the Accountant General within the time limit, an interim reply should be given indicating the action taken to rectify the defects pointed out.

It was noticed that out of the inspection reports issued upto December 2011, 20,629 paragraphs involving ₹ 2,102.05 crore relating to 2,751 IRs remained outstanding at the end of June 2012. A table containing figures for the current year and preceding two years is given below:

	June 2010	June 2011	June 2012
Number of outstanding IRs	2,581	2,581	2,751
Number of outstanding audit observations	15,052	18,604	20,629
Amount involved (₹ in crore)	1,426.98	1,522.81	2,102.05

The outstanding audit observations had increased by 37 per cent during the two years period indicating that the heads of departments had not initiated prompt action to clear audit observation.

The department-wise details of the IRs and audit observations outstanding as on 30 June 2012 and the amounts involved are mentioned below:

Sl. No.	Name of the Departments	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1.	Taxes	Taxes on sales, trade etc	1317	15,962	1,848.44
		Taxes on agricultural income	164	756	47.22
2.	Revenue	Land revenue	309	1,275	133.74
3.	Transport	Taxes on vehicles	254	1,324	29.58
4.	Stamps and registration	Stamps and registration fees	424	874	12.46
5.	Excise	Excise duty	250	355	26.47
6.	Power	Taxes and duties on electricity	17	62	0.63
7	Lotteries	Lotteries	16	21	3.51
Total			2,751	20,629	2,102.05

First replies from the heads of offices for 175 IRs issued upto December 2011 have not been received.

Non-receipt of first replies and increase in the number of outstanding audit observations indicate that the head of offices and head of departments did not initiate timely action to rectify the omissions pointed out in the IRs.

It is recommended that the Government may take suitable steps to design effective procedures to ensure prompt and appropriate response to audit observations.

1.3.2 Departmental audit committee meetings

The Government set up audit committees to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2011-12 and the paragraphs settled are mentioned below:

Head of revenue	Number of meetings held	Number of paragraphs settled		Amount of settled paras	Number of audit paragraphs outstanding and percentage of settlement
				₹ in crore	
Tax on sales, trade etc.	2	2000-01	8	1.51	<u>14798</u> 1.46
		2001-02	11		
		2002-03	8		
		2003-04	69		
		2004-05	74		
		2005-06	46		
		Total	216		
Stamp duty and registration fees	4	2006-07	1	0.34	<u>1134</u> 7.05
		2007-08	6		
		2008-09	15		
		2009-10	29		
		2010-11	27		
		2011-12	2		
		Total	80		
Taxes on vehicles	6	2005-06	7	1.29	<u>1487</u> 14.79
		2006-07	15		
		2007-08	24		
		2008-09	32		
		2009-10	104		
		2010-11	38		
		Total	220		
Land Revenue and Building Tax	4	2003-04	2	0.24	<u>1343</u> 10.05
		2004-05	3		
		2005-06	9		
		2006-07	11		
		2007-08	19		
		2008-09	28		
		2009-10	35		
		2010-11	28		
		Total	135		
Grand Total	16		651	3.38	<u>18762</u> 3.47

During the year 2011-12, Agricultural Income Tax Department, Excise department and Lotteries department did not conduct any departmental audit committee meetings.

It is recommended that the Departments may conduct more number of audit committee meetings so as to clear all IRs prior to 2006-07 and to see that the percentage of clearance is substantial in the other cases.

1.3.3 Non-production of records to Audit for scrutiny

The programme of local audit of Commercial Tax Offices is prepared sufficiently in advance and intimated to the Department usually one month before the commencement of audit, to enable them to keep the relevant records ready for audit scrutiny.

During 2011-12, 9,364 tax assessment records relating to 115 offices were not made available to Audit. Of these cases, 1,409 files pertained to 13 special circles, where assessments of major dealers are dealt with, details of which are as follows:

Name of Office	Year in which it was to be audited	KGST	VAT
AC Spl. Circle I, Kozhikode	Upto 2011-12	-	28
AC (Assmt.), Spl. Circle, Kannur	„	-	34
AC Spl. Circle, Kasaragode	„	-	6
AC (Assmt.) Spl. Circle, Kottarakara	„	2	18
AC (Assmt.) Spl. Circle, Thiruvananthapuram	„	32	108
Spl. Circle, (Produce), Mattanchery	„	274	44
Spl. Circle I, Ernakulam	„	5	88
Spl. Circle II, Ernakulam	„	10	31
Spl. Circle III, Ernakulam	„	220	28
Spl. Circle, Perumbavoor	„	-	11
Spl. Circle, Malappuram	„	158	134
Spl. Circle, Palakkad	„	50	57
Spl. Circle, Kottayam	„	-	71
Total		751	658

Non-production of large number of records involving substantial revenue seriously hamper audit in discharging the Constitutional responsibility and deprives the State of additional revenue that may accrue due to audit.

It is recommended that the Government may issue strict instructions to officers concerned for ensuring availability of these files at the time of audit and punitive action may be taken against the officers who are defaulting regularly.

1.3.4 Position of Inspection Reports

The summarised position of inspection reports issued on revenue receipts relating to various departments during the last five years, paragraphs included in these reports and their status as on 31 March 2012 are tabulated below:

(₹ in crore)

Year	Opening balance		Addition during the year		Clearance during the year		Closing balance	
	IRs/ Parag- raphs	Money value	IRs/ Parag- raphs	Money value	IRs/ Parag- raphs	Money value	IRs/ Parag- raphs	Money value
2007-08	2,469 13,609	651.17	599 3,525	557.96	292 2,156	272.16	2,776 14,978	936.99
2008-09	2,776 14,978	936.99	631 4,961	196.72	438 2,804	129.24	2,969 17,133	1,004.47
2009-10	2,969 17,133	1,004.47	712 7,017	688.19	1,081 7,699	198.66	2,600 16,451	1,493.99
2010-11	2,600 16,451	1,493.99	593 6,359	4,313.84	377 2,664	192.53	2,816 20,146	5,615.30
2011-12	2,816 20,146	5,615.30	480 4,916	1,004.36	357 2,323	59.99	2,940 22,741	6,559.67

During the five year period, the departments concerned conducted 95 audit committee meetings and cleared 4,976 paras.

1.3.5 Response of the departments to the draft audit paragraphs

Draft paragraphs/reviews proposed for inclusion in the Audit Report are forwarded to the Secretaries of the departments concerned through demi-official letters. All departments are required to furnish their remarks on the draft paragraphs/reviews within six weeks of their receipt as per the instructions issued in 1965 by the Government. The fact of non-receipt of replies from the Government are indicated at the end of each paragraph included in the Audit Report.

113 draft paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2012 were forwarded to the Secretaries concerned to the Government and copies were endorsed to the head of the departments concerned. However, replies/response to 34 draft paragraphs (out of 113 paragraphs) were not received (December 2012).

1.3.6 Follow-up on Audit Reports – summarised position

Instructions were issued by the Government from time to time for timely follow-up action on the Audit Reports. The Public Accounts Committee (PAC) stipulates submission of action taken notes (ATNs) on paragraphs and reviews included in the Audit Report indicating the remedial action taken or proposed to be taken, within two months from the date of presentation of the Audit Report to the legislature without waiting for any notice or call from the PAC.

The review of the outstanding ATNs on 630 paragraphs included in 17 Reports of the Comptroller and Auditor General of India (Revenue Receipts) for the years ended 31 March 1995 to 31 March 2010 disclosed that the departments had not submitted remedial ATNs on all paragraphs within the prescribed time.

Out of 630 paragraphs included in the above 17 Audit Reports, the departments had not submitted ATNs on 57 paragraphs.

The Audit Reports (No.3 and No.6) for the year ended 31 March 2011 were laid on the table of the legislature on 06 March 2012. The departments had not submitted ATNs on 48 paragraphs included in the above Audit Reports by July 2012 although the prescribed time period was over in May 2012. This indicates that the executive did not take prompt action on the important issues highlighted in the Audit Reports that involved unrealised revenue.

1.3.7 Compliance with the earlier Audit Reports

During the years between 2006-07 and 2010-11 the departments/Government accepted audit observations involving revenue of ₹ 835.32 crore out of which an amount of ₹ 79.55 crore was recovered till July 2012 as mentioned below:

(₹ in crore)				
Sl. No.	Year	Total money value	Money value of accepted cases	Amount recovered
1	2006-07	279.90	26.86	3.81
2	2007-08	276.21	250.15	7.43
3	2008-09	675.44	109.52	57.95
4	2008-09 Vol.II	295.24	116.93	0
5	2009-10	1,048.55	327.04	9.35
6	2010-11	1,622.36	4.82	1.01
7	2010-11 Vol.II	253.75	0	0
Total		4,451.45	835.32	79.55

The departments had recovered only 9.5 *per cent* of the accepted amount. The departments may take earnest efforts for the recovery of the balance amount.

1.4 Planning for audit during 2011-12

Unit offices under various departments were 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 was prepared on the basis of risk analysis using data on Government revenues and tax administration i.e., budget speech, reports of the finance commission (State and Central), recommendation of the taxation reforms committee, statistical analysis of the revenue earnings during the past 5 years, features of the tax administration, audit coverage and its impact during the last 5 years etc.

During 2011-12, the audit universe comprised 833 units of which 472 were planned for audit. 100 *per cent* of the units planned for audit during the year were audited.

A performance audit was conducted besides the compliance audit mentioned above.

1.5 Results of audit

1.5.1 Position of local audit conducted during the year

The records of 503[^] units of commercial tax, motor vehicles and other departmental offices were test checked during the year 2011-12 and underassessment/short levy/loss of revenue aggregating ₹ 955.57 crore in 3,249 cases were noticed. During the course of the year the departments concerned accepted underassessment and other deficiencies of ₹ 34.08 crore involved in 1127 cases of which 374 cases involving ₹ 9.44 crore were pointed out in audit during 2011-12 and the rest in the earlier years. The departments collected ₹ 10.10 crore in 856 cases during 2011-12.

The Department recovered in full ₹ 8.3 lakh involved in two draft paragraphs which were issued based on the audit observations pointed out between April and November 2010.

1.5.2 Material included in this report

This Report contains 39 paragraphs (selected from the audit observations made during the local audit referred to above and during earlier years which could not be included in earlier reports) including one performance audit on 'Levy and collection of VAT on evasion prone commodities/areas in Commercial Taxes Department' involving financial effect of ₹ 304.66 crore. The departments/Government have accepted audit observations involving ₹ 12.32 crore. The replies in the remaining cases have not been received (December 2012). These are discussed in succeeding chapters II to VIII.

[^] Figures are taken based on the number of IRs issued during the year.

EXECUTIVE SUMMARY – CHAPTER - II

Low increase in tax collection	During 2011-12, tax collection increased by 19.62 <i>per cent</i> as against 23.97 <i>per cent</i> during the previous year. Though the number of dealers shows a substantial increase every year, it was not reflected in VAT collection.
Internal Audit was weak	Internal Audit Wing (IAW) was able to audit only 32 out of the 132 units planned for audit during the year. Further, none of the outstanding audit observations of IAW was cleared during 2009-10 to 2011-12.
Ineffective follow up of audit observations	The Department accepted ₹ 6.68 crore in 537 cases pointed out, but only 68.41 <i>per cent</i> of the amount accepted was recovered.
Results of audit	In 2011-12 records of 175 units relating to KGST and KVAT were test checked and 2,539 observations involving ₹ 810.11 crore were pointed out of which 537 cases involving ₹ 6.68 crore were accepted. ₹ 8.3 lakh involved in two draft paragraphs issued based on the audit observations pointed out by audit between April and November 2010 has been recovered by the Department fully. Apart from this one Performance Audit were also conducted.
What is highlighted in this Chapter	<p>A Performance Audit on “Levy and collection of VAT on evasion prone commodities/areas in commercial taxes department” had been done and brought to light the commodities/areas unexplored involving money value of ₹ 222.98 crore. 15 paragraphs involving money value of ₹ 67.52 crore are also presented.</p> <p>Most of the omissions highlighted in this Chapter had been pointed out repeatedly in the past audit reports, but such irregularities still persist and remain undetected till they are pointed out by Audit.</p>
Conclusion	<p>The Department needs to improve the internal control system including strengthening of internal audit so that weaknesses in the system are addressed and omissions pointed out by Audit are prevented or detected and remedied in a timely manner.</p> <p>The Department needs to monitor the dealer activities regularly with the aid of information technology and ensure promptness of activities/turnover declared.</p>

CHAPTER-II: TAX ON SALES, TRADE ETC.

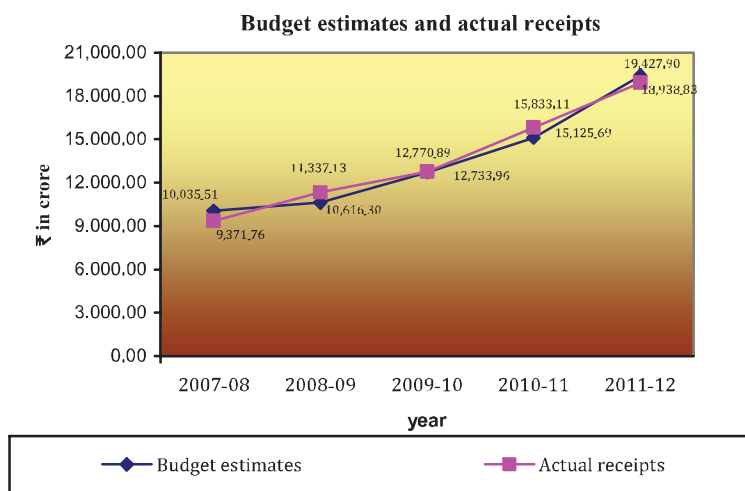
2.1 Tax administration

The Commercial Taxes Department contributed 73.64 *per cent* of the revenue of the State during 2011-12. The revenue is derived from the assessment and collection of different taxes like General Sales Tax (GST), Value Added Tax (VAT) and Central Sales Tax (CST) which are regulated by the Kerala General Sales Tax Act (KGST), 1963, The Kerala Value Added Tax Act (KVAT), 2003, the Central Sales Tax Act (CST), 1956 and notifications issued by the Department from time to time. The Department is under the administrative control of the Secretary to Government, Taxes Department. The Commissioner of Commercial Taxes administers the Acts and Rules. He is assisted by Joint Commissioners, Deputy Commissioners, Assistant Commissioners and Commercial Tax Officers. The assessment, levy and collection of tax is done by Assistant Commissioners and Commercial Tax Officers.

2.2 Trend of receipts

GST is leviable on sale of Ganja and opium, foreign liquor and certain petroleum products. VAT is leviable on the intra state sale of remaining commodities and CST on interstate sales. Actual receipts under VAT Act (0040-111), KGST Act (0040-102) and CST Act (0040-101) etc. during the last five years (2007-08 to 2011-12) along with the budget estimates during the same period is exhibited in the following table and graph.

(₹ in crore)							
Year	Budget estimates	Actual receipts	Variation	Percent age of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts	Percentage of growth rate
2007-08	10,035.51	9,371.76	(-) 663.75	(-) 6.61	13,668.95	68.56	9.44
2008-09	10,616.39	11,377.13	(+) 760.74	(+) 7.17	15,990.18	71.15	21.39
2009-10	12,733.94	12,770.89	(+) 36.95	(+) 0.29	17,625.02	72.46	12.25
2010-11	15,125.69	15,833.11	(+) 707.42	(+) 4.67	21,721.69	72.89	23.97
2011-12	19,427.90	18,938.83	(-) 489.07	(-) 2.52	25,718.60	73.64	19.62



2.3 Assessee profile

The number of dealers registered as at the end of 2009-10, 2010-11 and 2011-12 are shown below:

2009-10	1,59,665
2010-11	1,69,298
2011-12	1,86,987

Source : K VATIS

Audit noticed an increase of 17,689 in the number of dealers during 2011-12 over the preceding year. As per the information furnished by CCT the VAT collection from 50 top dealers in the State was ₹ 2,731.48 crore which is 27.86 per cent of the total collection. Out of the total dealers, 26,001 dealers constituting 13.9 per cent were paying tax at 0.5 per cent under the category of presumptive tax payers.

Tax collection from KGST during 2011-12 was ₹ 8,754.38 crore as per the Finance Accounts prepared by AG (A&E). The tax payable by five¹ major dealers alone comes to ₹ 7,359.22 crore as per their returns, which requires reconciliation so as to rectify the differences, if any.

¹ Kerala State Beverages Corporation (₹ 4,635.72 crore), Indian Oil Corporation (₹ 1,911.77 crore), Bharat Petroleum Corporation (₹ 1,080.08 crore), Hindustan Petroleum (₹ 956.57 crore) and Reliance Industries (₹ 34.72 crore).

2.4 Receipt of VAT per assessee

The receipt of VAT/sales tax per assessee during 2011-12 was slightly higher when compared to that of 2010-11 as shown below :

Year	No. of assessee	Total collection (₹ in crore)	Receipt per assessee (₹ in lakh)
2010-11	1,69,298	15,499.22	9.15
2011-12	1,86,987	18,558.12	9.92

2.5 Arrears in sales tax assessments

The Department furnished the position of arrears of assessment under sales tax which is as shown below :

Opening balance	6,146
Addition during 2011-12 including remanded cases	5,135
Total	11,281
No. of assessments completed	4,164
Arrear cases – 3,015	
Current cases – 903	
Remanded cases – 246	
Closing balance	7,117

Department completed 4,164 assessments under KGST which was only 36.91 *per cent* of arrears outstanding.

2.6 Cost of collection

The gross collection of revenue receipts under the head, tax on sales, trade etc., expenditure incurred on collection and the percentage of expenditure to gross collection during 2007-08 to 2011-12 along with the all India average percentage of expenditure on collection to gross collection for relevant years are mentioned below:

Year	Collection*	Expenditure on collection of revenue*	Percentage of expenditure to gross collection	All India average percentage over the preceding year
	(₹ in crore)			
2007-08	9,371.76	89.75	0.96	0.82
2008-09	11,377.13	102.59	0.90	0.83
2009-10	12,770.89	126.01	0.99	0.88
2010-11	15,833.11	115.61	0.73	0.96
2011-12	18,938.83	166.55	0.88	0.75

*Source: Finance Accounts and Departmental figures.

Audit noticed that the expenditure on collection was higher than the all India average. The increase in revenue collection by 19.62 *per cent* during the year is appreciated, but the corresponding increase in expenditure on collection of revenue amounted to 44.06 *per cent* which is significant considering the reduction in all India average.

2.7 Analysis of collection

Tax revenue collected on tax on sales, trade etc. during the last two years as recorded in the books of the Accountant General (A&E) Kerala is given below:

Revenue head	₹ in crore)			Increase in 2011-12 over 2010-11 (Percentage)
	2009-10	2010-11	2011-12	
Sales Tax	5,212.92	7,402.07	8,754.38	18.27
VAT	7,235.26	8,097.15	9,803.74	21.08
CST	292.94	310.42	292.66	-5.7

The above table indicates that during 2011-12 collection of VAT increased by ₹ 1,706.59 crore and of sales tax increased by ₹ 1,352.31 crore. The Department intimated (July 2012) that the increase in price, e-payment, KVATIS scrutiny and improved enforcement measures led to significant increase of VAT/Sales tax collection during 2011-12.

2.8 Impact of audit

Revenue impact

During the last four years, 10,840 paragraphs with revenue implication of ₹ 3,155.92 crore were pointed out. The observations were regarding non/short levy, underassessment/loss of revenue, incorrect exemption, application of incorrect rate of tax etc. Of these, the Department/Government accepted audit observations involving ₹ 1,030.98 crore and had since recovered ₹ 32.58 crore. The details are shown in the following table:

Year	Paragraphs included in the LAR		Paragraphs accepted during the year		Amount recovered during the year	
	No.	Amount	No.	Amount	No.	Amount
2007-08	1,055	334.37	299	241.50	181	2.46
2008-09 (Report No.3)	2,181	459.11	341	32.77	203	9.40
2008-09 (Report No.6)	1	295.24	1	116.93	—	—
2009-10	4,451	1,122.54	657	558.60	588	5.02
2010-11	3,152	944.66	797	81.18	522	15.70
Total	10,840	3,155.92	2,095	1,030.98	1,494	32.58

The recovery position as compared to the accepted cases during the last four years was very low being only 3.16 *per cent*. The insignificant recovery of ₹ 32.58 crore against the money value of ₹ 1,030.98 crore relating to the accepted cases

during the period 2007-08 to 2010-11 highlights the failure of the Department in recovering promptly the Government dues even in respect of cases accepted by them.

2.9 Working of internal audit wing

The internal audit wing (IAW) in the Commercial Taxes Department commenced functioning from 1 June 2009. The wing is headed by a Deputy Commissioner, three Assistant Commissioners and six Commercial Tax Officers. During the year 2011-12, against the target of 132 units, 32 units were audited leaving 100 units unaudited. The Department attributed the arrears to the ceiling fixed on Travelling Allowance to Audit Officers. There were 85 IRs with 1,195 observations involving ₹ 90.63 crore outstanding (June 2012). Further, during 2009-10 to 2011-12, there was no clearance of observations by settlement which indicated poor response to the observations of IAW. The Department has not prepared a separate internal audit manual.

It is recommended that the IAW may be strengthened so that they are able to achieve their planned audit target. Besides, a mechanism needs to be evolved for timely settlement of the audit observations raised by the IAW.

2.10 Results of audit

In 2011-12, Audit test checked the records of 175 units relating to KGST and KVAT. Underassessment of tax and other irregularities involving ₹ 810.11 crore in 2,539 cases were detected which fall under the following categories :

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
Value Added Tax/KGST			
1	Turnover escaping assessment	898	267.10
2	Grant of irregular exemption	400	255.43
3	Application of incorrect rate of tax	211	29.10
4	Grant of excess input tax credit	425	21.33
5	Incorrect grant of concessional rate of tax	26	147.45
6	Non/short levy of Interest	17	3.18
7	Other lapses	562	86.52
Total		2539	810.11

The Department accepted underassessment and other deficiencies of ₹ 6.68 crore in 537 cases, of which 233 cases involving ₹ 4.22 crore were pointed out in audit during the year 2011-12 and the rest in earlier years. An amount of ₹ 4.57 crore was realised in 430 cases of which 153 cases involving ₹ 2.68 crore were pointed out during the year 2011-12.

Two draft paragraphs were issued involving ₹ 8.3 lakh, based on the audit observations pointed out by audit between April and November 2010. The Department has recovered the entire amount.

A Performance Audit on **“Levy and collection of VAT on evasion prone commodities/areas in Commercial Taxes Department”** with financial impact of ₹ 222.98 crore and a few illustrative audit observations involving ₹ 67.52 crore are mentioned in the following paragraphs.

2.11 Performance Audit on ‘Levy and collection of VAT on evasion prone commodities/areas in Commercial Taxes Department’

2.11.1 Highlights

Cross verification of the data obtained from State Pollution Control Board, Mining and Geology Department and Departments of Industries & commerce revealed that 378 dealers had not registered themselves with the Commercial Taxes Department (CTD).

(Paragraph 2.11.12.1)

Cross verification of the information obtained from the Controller General of patents and Trademarks, Customs Department with the data available with the CTD revealed that 56 dealers had suppressed their turnovers resulting in short levy of tax of ₹ 211.26 crore.

(Paragraph 2.11.12.4)

In the Special Circle, Thiruvananthapuram, the Kerala State Road Transport Corporation received ₹ 6.15 crore as income from advertisement on bus bodies during the period 2006-07 to 2010-11 but did not assess the same to tax. This resulted in non-levy of tax and interest of ₹ 34 lakh.

(Paragraph 2.11.12.6)

The Department had not fixed the floor rate for Day old chicks (DOC). The farmers paid taxes at lesser rates on interstate rates than the rate fixed by KEPC. This resulted in loss of tax of ₹ 3.84 crore.

(Paragraph 2.11.12.7(i))

Despite reports of the Investigation Wing of the CTD regarding tax evasion by use of bogus C/F declaration forms, the Department did not take any action for realisation of tax of ₹ 5.03 crore.

(Paragraph 2.11.12.9)

The floor rate for plywood fixed in February 2007 was proposed to be revised in August 2009 with a hike of 15 *per cent* but these were not revised till November 2011. The delay in revision of floor rates resulted in forgoing of revenue of ₹ 2.02 crore during 2010-11.

(Paragraph 2.11.12.10)

2.11.2 Introduction

The Commercial Taxes Department (CTD) is the highest revenue earning department of the State of Kerala, which contributed 73.64 *per cent* of the total state's revenue income in 2011-12. The tax on sales and purchase in the state is governed by three Acts the Kerala Value Added Tax Act 2003 (KVAT), the Kerala General Sales Tax Act (KGST), the Central Sales Tax (CST) Act.

Section 47(16A) of the KVAT Act empowers the Commissioner of Commercial Taxes (CCT) to specify the commodities prone to evasion for which tax shall be paid in advance. The CCT in December 2006 specified twelve² evasion prone commodities for which tax should be collected in advance.

Under the KGST regime, the compulsory annual assessment provided the chances for scrutiny of all the transactions of a dealer. However, in KVAT Act, the returns filed by the dealer under Section 20 shall be deemed to have been assessed under Section 21 on receipt of the return by the Department.

2.11.3 Reasons for selection

The tax on entry of goods into local areas was abolished in December 2006, thereafter the CCT specified evasion prone commodities for which advance tax was required to be paid. A number of deficiencies/tax evasion were noticed during local audit. It was considered appropriate to conduct a Performance Audit on the commodities specified by the Department as evasion prone, and also on areas where the possibility for evasion was more, to ascertain the reasons thereon and remedial action required to be taken.

2.11.4 Organisational set-up

The Secretary to Government, Taxes Department has administrative control over the Department of Commercial Taxes. The Commissioner of Commercial Taxes (CCT) is the head of the Department. There are four Joint Commissioners (JC) viz. JC-I, JC (General), JC (Audit & Inspection) and JC (Law) of which JC(General) is in charge of the entire assessment wing. District level administration of commercial taxes offices is carried through 15 Deputy Commissioners (DC) in 15 tax districts. The DC in each district is the administrative head of the offices in that district. Assessment and collection of tax is done by Assistant Commissioners in 19 special circles where dealers having higher turnover and tax impact are managed and by the Commercial Tax Officers in 107 ordinary circles where other dealers are managed. The return scrutiny, audit visits, assessments, revenue recovery etc. are all attended to by these assessing and registering authorities.

² Marble/granite slab and tiles, ceramic/vitrified floor/wall tiles, lift, elevators, escalators, glass sheet, Cudappah Stone, readymix concrete, generators, timber, live chicken, petroleum products other than LPG, bitumen.

2.11.5 Objectives of Audit

The Performance Audit was conducted with a view:

- ❖ to examine whether the provisions in the Act and Rules were adequate to avoid leakage of revenue in respect of evasion prone commodities;
- ❖ to see whether the existing organisational structure was adequate for analysis and detection of evasion;
- ❖ to see whether corrective measures are taken by the Department to plug the loopholes as and when evasion was detected;
- ❖ to identify unattended areas of evasion; and
- ❖ to ascertain whether the internal control mechanism in the Department was adequate and effective to prevent leakage of revenue.

2.11.6 Audit criteria

The criteria for this performance audit are derived from the provisions and Rules of the Central and State laws mentioned below:

Central Laws

The Central Sales Tax Act, 1956

State Laws

1. The Kerala Value Added Tax Act, 2003
2. The Kerala Value Added Tax Rules, 2005

In addition, criteria have been derived from the notification/Government Orders issued from time to time by the Government.

2.11.7 Scope and Methodology

The Performance Audit was conducted during January to May 2012 covering the period from 2006-07 to 2010-11. The CTD is divided into three zonal intelligence offices³ headed by Deputy Commissioners spread over 14 districts. The intelligence wing is the main pillar of the Department which deals mainly with surveillance and detection of evasion of tax. Two districts from each zone were selected on a simple random sampling without replacement method. Six⁴ check posts were also selected on the basis of revenue collection and transportation of certain evasion prone commodities. The assessment records in

³ Deputy Commissioner (Intelligence), Thiruvananthapuram, Ernakulam and Kozhikode

⁴ Manjeshwaram, Walayar, Aryankavu, Amaravila, Nadupunni and Gopalapuram

32⁵ assessment circles in the selected six⁶ districts were cross checked with the secondary data collected from the Custom House, Kochi, The Joint Director General of Foreign Trade, Kochi and Thiruvananthapuram, the Kerala State Pollution Control Board, the Department of Industries and Commerce and the Department of Mining and Geology.

The selection of assesseees was based on the commodity wise dealer information available in the Kerala Value Added Tax Information System (KVATIS) of the CTD. The initial scrutiny of 429 returns which constituted 25 *per cent* returns of the dealers trading in evasion prone commodities pertaining to assessment circle of six districts selected on stratified sampling method, was conducted in the KVATIS to identify potential cases involving evasion in respect three commodities *viz.* Chicken, marbles/tiles and timber from the evasion prone list and two commodities from the notified list namely cashew and plywood. Returns of such identified cases were checked at the assessment circles.

2.11.8 Interaction with the Government/Department

An Entry Conference was held on 24 January 2012 with the Secretary to Government (Taxes) and the CCT, where in the scope and methodology of audit were discussed. The Report was sent (June 2012) to the Department/Government and the key audit findings of the performance audit report were discussed with the Additional Secretary to Government, Taxes Department and the CCT during the Exit Conference held on 25 June 2012. The replies received in the Exit Conference and at other points of time have been appropriately commented in the relevant paragraphs.

2.11.9 Acknowledgment

Audit acknowledges the co-operation extended by the Commercial Taxes Department, the Customs Department, the Joint Director General of Foreign Trade, Ernakulam and Thiruvananthapuram, the Kerala State Pollution Control Board, Department of Industries and Commerce, the Department of Mining and Geology, the Department of Economics and Statistics and the Registrar of Companies (Kerala & Lakshadweep) for providing necessary information and inputs required for preparation of the Report.

⁵ **Thiruvananthapuram:** Special Circle, I Circle, II Circle, Works Contract, **Kollam:** Special Circle, II Circle, III Circle, Kundra, Special Circle, Kottarakara, **Ernakulam:** Special Circle I, Special Circle II, Special Circle III, II Circle, III Circle, IV Circle, CTO Kalamassery, I Circle Mattanchery, II Circle Mattanchery, Works Contract, Special Circle, Perumbavoor, II circle Perumbavoor, I Circle Perumbavoor, **Palakkad:** Special Circle, II Circle, III Circle **Kozhikode:** Special Circle 1, Special Circle II, II Circle and III Circle. **Kannur:** Special Circle, I Circle, II Circle and III Circle

⁶ Thiruvananthapuram, Kollam, Ernakulam, Palakkad, Kozhikode and Kannur

2.11.10 Trend of Revenue

The collection of VAT revenue increased from ₹ 8,563.31 crore in 2006-07 to ₹ 15,833.11 crore in 2010-11, with an increase of 85 *per cent*.

(₹ in crore)

Year	Budget estimates	Actual collection	Percentage of collection to budget estimates	Variation (in percentage)
2006-07	7,930.38	8,563.31	107.98	8
2007-08	10,035.51	9,371.76	93.39	(-) 7
2008-09	10,616.39	11,377.13	107.17	7
2009-10	12,733.96	12,770.89	100.29	0
2010-11	15,835.90	15,833.11	99.98	0

The above table indicates that the variation between the budget estimates and actual collection during the period was less than ten *per cent* up to 2008-09 and negligible during 2009-10 and 2010-11. The low percentage of variation between budget estimate and the actual is appreciable.

2.11.11 System Deficiencies**2.11.11.1 Scrutiny of annual returns**

Under the KGST regime, the compulsory annual assessment provided chances for scrutiny of returns of all the dealers while under KVAT Act, when a return is accepted under Section 21, it is deemed to have been completed. However, assessments in case of non-filing of returns and filing of defective returns are done under Section 23 of the Act. In addition to the above, the Department complete audit assessment of selected cases also under Section 24 and assessment of escaped turnover under Section 25.

The details of Returns filed and assessments made in nine of the selected offices as per the sample are given below:

Sl. No.	Office	Total number of dealers	Assessment						
			Self assessment U/s21	Best of judgment U/s 22		Audit Assessment U/s 24		Escaped turnover U/s 25	
				No of cases	Addl. demand created	No of cases	Addl. demand created	No of cases	Addl. demand created
1.	Special Circle, Thiruvananthapuram	628	628	(Amount ₹ in lakh)					
				0	0	0	0	268	567.87
2.	Special Circle, Kollam	746	746	0	0	0	0	328	1116.75
3.	Special Circle, Kottarakara	295	295	6	32.33	7	15.68	100	384.29
4.	Special Circle III, Emakulam	590	585	0	0	0	0	94	860.65
5.	Special Circle, Perumbavoor	453	440	0	0	0	0	72	158.93
6.	Special Circle I, Kozhikode	564	564	0	0	12	33.84	100	413.29
7.	Special Circle II, Kozhikode	280	280	6	0.63	2	1.13	144	705.31
8.	Special Circle, Kannur	477	477	0	0	6	28.56	120	302.38
9.	Special Circle, Palakkad	457	457	0	0	0	0	31	435.48
Total		4490	4490	12	32.96	27	79.21	1257	4944.95

Out of the 4,490 returns received, detailed scrutiny was conducted only in 1,296 (31 *per cent*) cases. The remaining 3,194 (69 *per cent*) returns were considered as deemed to have been assessed based on self assessment. It was noticed that from these 31 *per cent* of the cases, the Department could raise an additional demand of ₹ 5,057.12 lakh. This is a clear indicator of the revenue potential of the detailed scrutiny.

After this was pointed out in audit, the Government issued (November 2012) instructions to the Department to scrutinise annual returns of dealers with turnover above ₹ 60 lakh along with audited statements and as regards other cases, to scrutinise at least once in three months.

2.11.11.2 Results of abolition of Audit Assessment Wing

The separate audit assessment wing which was initially formed in 2006-07, at the time of switching over to the KVAT Act was abolished due to manpower shortage. The wing was doing local inspection under the VAT regime up to 2008. Thereafter, the assignments under audit functions were also attended to by the officers in the assessment circles. During 2006-07 and 2007-08 there were 4,487 audit visits to the business places of dealers, out of 1.78 lakh dealers. The abolition of the audit assessment wing resulted in non-inspection of local units. In the KVAT regime, where assessment is deemed to be completed on self declaration, the need for a dedicated audit assessment wing for scrutiny is essential.

2.11.11.3 Low achievement by Internal Audit

The Internal Audit Wing of the Department was able to audit only eight offices during 2009-10 and 14 offices during 2010-11 out of 126 assessment circles. Thus, the audit coverage/achievement was only 0.63 *per cent* in 2009-10 and 11.11 *per cent* in 2010-11. The irregularities detected during 2009-10 and 2010-11 were 262 cases involving ₹ 7,061.49 lakh and 458 cases involving ₹ 2,417.16 lakh respectively. The action taken/recoveries made on the internal audit observations were not furnished despite being requested (December 2012).

Since the chances for evasion are more on self assessed returns, the percentage coverage of internal audit wing needs to be increased to ensure that all the dealers comply with the provisions of the Act.

2.11.11.4 Merger of Commercial Investigation Wing with Intelligence Wing

The Intelligence Wing in the CTD with its duty to identify cases of tax evasion is the main pillar of the supervisory mechanism to safeguard the revenue. Identification of tax avoidance by dealers through consistent check with data and returns from financial institutions and other departmental agencies like the Central Excise, Income Tax, Customs, Railways etc., was entrusted to the Commercial Investigation (CI) Wing under the direct control of the CCT. However, the CI wing was re-arranged and merged with the Intelligence Wing (November 2011). Though import data of goods was collected (2011-12) from the Customs Department by Investigation Branch (IB) of the CTD in Kochi, sharing of the

same with other zonal intelligence offices and cross verification of the same to identify cases of evasion was not done indicating that with the merger, the work was left unattended.

After this was pointed out in audit, the Government stated (November 2012) that an "Economic Intelligence Wing" will be constituted in the Department which will go a long way in overcoming the deficiency pointed out. Further developments are awaited (November 2012).

It is recommended to restore audit assessment wing, Commercial Investigation Wing, and strengthen the Internal Audit Wing to ensure compliance of the provisions of the Acts and Rules. The Government may advise the Department to scrutinise annual returns of dealers beyond a fixed limit.

After this was pointed out the Government accepted our recommendations for restoration of the wings and issued instructions to scrutinise returns with turnover above ₹ 60 lakh.

2.11.12 Methods of tax evasion

2.11.12.1 Non-registration of dealers

Non-registration is one of the methods practised by the dealers to evade tax.

As per the KVAT Act 2003, every dealer with annual turnover not less than ₹ five lakh and casual dealers, industrial units, dealers registered under the CST Act, all contractors, irrespective of the turnover shall get himself registered.

As per the data made available by the CCT, there were 1.78 lakh registered dealers as on 31 March 2011 compared to 1.28 lakh as on 31 March 2006, with an increase of only 50,193 during the period of five years. However, it was found that the Department of Economics and Statistics of Kerala had statistics of 13.24 lakh units in the non-agricultural field under different categories, which is exigible to VAT as mentioned below:

Name of the activity	Rural	Urban	Total
Mining and quarrying	2,487	660	3,147
Manufacturing	3,45,934	1,43,667	4,89,601
Electricity, Gas and Water supply	4,157	804	4,961
Construction	10,151	7,178	17,329
Sales, maintenance and repair of motor vehicle/motor cars	19,811	17,699	37,510
Wholesale traders	35,251	19,917	55,168
Retail traders	4,15,109	2,03,257	6,18,366
Restaurants and hotels	69,249	28,577	97,826
	9,02,149	4,21,759	13,23,908

Further, the Committee constituted by the Government under the chairmanship of Deputy Commissioner (Intelligence), Thiruvananthapuram in November 2011 to study restructuring of the CTD including registration of new dealers, in its report (January 2012) stated that by bringing new dealers into the tax net through survey, the suppliers in the VAT chain will be forced to issue sales bills and the

VAT trail upto the consumer level would be complete and on a conservative estimate the minimum tax impact would be ₹ 87.75 crore per year and thereby securing the legitimate tax to the Government. This indicates the existence of unregistered dealers.

However, there was nothing on record to indicate that the Department had made use of the above information to bring unregistered dealers under tax net.

2.11.12.2 Absence of co-ordination with other Government Departments and boards for registration of dealers

We found that there was no co-ordination between the CTD and other Government Departments to ascertain that the dealers whose turnover had exceeded the threshold limit were registered with the CTD and had declared turnover of their sales correctly in their returns.

The CTD had not put in place any mechanism⁷ for obtaining information from the "other Government Departments" and cross verify the same with the data available in KVATIS) to ascertain its correctness. A few deficiencies noticed instances are discussed in the following paragraphs:

- **Cross verification of data obtained from State Pollution Control Board in respect of Stone crushing units**

(i) Cross verification of the data available in Kerala value added tax information system (KVATIS) with the information obtained from the State Pollution Control Board (PCB) revealed that out of 110 stone crushing units registered with the PCB, 73 units were not registered in KVATIS involving a tax evasion of ₹ 29.20 lakh⁸ as shown below:

Name of the District	Total cases checked by Audit	Units registered already with the Department	Units not registered	Amount (₹ in lakh)
Kozhikode	23	13	10	4.00
Palakkad	12	4	8	3.20
Kannur	16	11	5	2.00
Ernakulam	59	9	50	20.00
	110	37	73	29.20

- **Cross verification of data obtained from Mining and Geology Department in respect of Stone Crushing units**

(ii) Cross verification of the data available in "VAT" with the information obtained from the Mining and Geology Department revealed that out of 37 stone crushing units registered with the Department, 22 units were not registered in KVATIS involving a tax evasion of ₹ 8.51 crore⁹ as shown below:

⁷ By way of returns or otherwise.

⁸ Evasion estimated at the minimum compounded tax of ₹ 40,000 per unit, based on the minimum jaw size of the machine.

⁹ Evasion of tax calculated based on the jaw size and actual number of machines used. Compounded tax ranged from ₹ 40,000 to 15,00,000 based on the jaw size.

Name of the District	Total cases checked by Audit	Units registered with the Department	Units not registered	Amount (₹ in lakh)
Kozhikode	1	0	1	20.11
Trivandrum	13	12	1	8.71
Palakkad	3	0	3	21.77
Kannur	1	1	0	0
Ernakulam	19	2	17	800.77
	37	15	22	851.36

There was no co-ordination between the Government agencies and the CTD which resulted in the existence of 95 units remaining unregistered. The assessing authority/intelligence wing also failed to detect this due to non-adherence to the Departmental instructions.

- **Cross verification of data obtained from Department of Industries and Commerce in respect of Plywood manufactures**

Audit cross checked information on plywood manufacturers available in the KVATIS with reference to the details collected from the Department of Industries and Commerce. There were 768 units registered with Industries and Commerce Department in Ernakulam district¹⁰. Out of these 283 dealers were not found registered under KVAT Act.

The Department did not make any effort to cross check data with other Departments.

2.11.12.3 Cross verification of check post returns with self assessed returns

M/s Regma Ceramics Ltd is a dealer in ceramic/vitrified tiles. As per the annual returns the assessee paid an advance tax of ₹ 4.43 crore during 2009-10 based on floor rates fixed by the Commissioner of Commercial Tax while bringing ceramic tiles from outside the State. The price of goods imported based on the advance tax worked out to ₹ 35.28 crore, but the assessee conceded a sales turnover of ₹ 32.40 crore only. This resulted in turnover of ₹ 2.78 crore escaping assessment and consequent evasion of tax, cess and interest of ₹ 41.06 lakh. The matter was reported to the Government (March 2012); no reply has been received (December 2012).

2.11.12.4 Results of cross verification of registered dealers

- **Cross verification of information obtained from Controller General of Patents and Trademarks with the returns of the dealers**

The Controller General of Patents, Designs and Trade mark, Mumbai¹¹ (CGPDT) is the authority where trademark is to be registered. Under the KVAT Act, bakery/food products sold under brand name registered under the Trade Mark Act 1999 are liable to tax at 12.5 per cent.

¹⁰ Plywood manufacturers are mainly concentrated in Ernakulam District.

¹¹ A Department of Government of India.

The details available on the website of the CGPDT were verified with the assessment records of ten dealers and it was found that nine bakery products which were sold under different trademark like Fresh, Best, Dev Snacks, Elite, Asian, Ojin were taxed as unregistered branded food products at the rate of four *per cent* instead of the correct rate of 12.5 *per cent*. This resulted in short realisation of tax of ₹ 36.84 crore as detailed in the following table.

(₹ in lakh)						
Sl. No.	Name of Assessee/Office	Turnover of products	Short levy at the differential rate of 8.5 <i>per cent</i>	Penalty	Interest	Total short levy of tax
1	M/s Kilban Foods India (P) Ltd- Spl. Circle II Kozhikode	737.84	63.15	126.29	18.15	207.58
2	M/s Fresh Products-IV Circle, Ernakulam	615.84	52.78	105.56	12.31	170.64
3	M/s Best Bakery – II Circle, Ernakulam	493.6	42.25	84.5	12.29	139.03
4	M/s Dev Snacks – CTO, Kundara	605.68	51.83	76.14	42.94	170.89
5	M/s Elite Foods (P) Ltd – Spl. Circle II, Ernakulam	6108.61	523.26	1066.54	137.54	1727.34
6	M/s Elite Natural (P) Ltd - Circle-IVth, Ernakulam	2757.77	240.88	481.75	62.86	785.47
7	M/s Asian Home Products (P) –III Circle, Trivandrum	317.7	27.01	54.01	14.06	95.06
8	M/s Best Foods Ltd- Spl. Circle I, Ernakulam	1238.17	106.3	212.59	23.16	342.06
9	M/s Ojin Bakers-II Circle, Kozhikode	95.63	8.21	16.6	1.72	26.53
10	M/s Ojin Bakers-II Circle, Kozhikode	71.15	6.11	12.22	0.94	19.26
Total		13041.99	1121.78	2236.2	325.97	3683.86

After the matter was reported, the Government stated (November 2012) that assessments have been completed creating additional demand of ₹ 1.12 crore in three cases. We have not received detailed report in respect of other cases (December 2012).

- **Cross verification of data obtained from Customs Department in respect of Raw Cashew dealers**

The details of import purchases of Raw Cashew Nut (RCN) through Cochin, Mangalore and Tuticorin Ports were collected from the Customs Department, and verified with reference to the returns filed by the dealers registered under the KVAT Act, 2003. It was found that 23 dealers had imported RCN valued ₹ 2,104.13 crore during the period from 2008-09 to 2010-11. The purchase turnover disclosed by the assesseees in their VAT returns filed with the CTD was ₹ 1,078.99 crore only, resulting in suppression of import purchase turnover of RCN valued at ₹ 1,025.14 crore. This resulted in short levy of tax, interest and penalty amounting to ₹ 136.11 crore (*Annexure I*).

After this was pointed out in audit, the Government stated (November 2012) that in 19 cases involving a tax effect of ₹ 120.35 crore, pre assessment notices had already been issued.

In three cases, the Government stated that the import value accounted for by the dealers was excluding the insurance charges and freight charges. The reply was not correct as the insurance charges and freight charges would form part of purchase price as per Section 2 (xxxviii) of the KVAT Act 2003. In one case no reply has been received.

- **Cross verification of data obtained from Customs Department in respect of Imported Timber**

Import purchase details of timber through Cochin, Mangalore and Tuticorin Ports during 2008-09 to 2010-11 were verified with reference to the VAT returns of dealers and it was found that 19 dealers had imported timber valued at ₹ 292.55 crore against which only ₹ 217.56 crore was conceded in the returns. This resulted in suppression of turnover to the tune of ₹ 74.99 crore and consequent short levy of tax amounting to ₹ 33.93 crore. A few cases are mentioned in the following table:

Sl. No.	Name of Assessee	Turnover (₹ in crore)		
		Customs data	Conceded in the returns	Difference
1.	Hillwood Furniture (P) Limited	66.02	49.88	16.14
2.	New Western Saw Mill	21.54	16.85	4.69
3.	St. Antonys Timber Depot	12.25	8.27	3.98
4.	VS Exports and Imports	65.71	42.47	23.24
5.	Wood Board	19.37	11.87	7.50

- **Cross verification of data obtained from Customs Department in imported material used by works contractors**

Section 8 of the KVAT Act requires a contractor to pay tax at compounded rate, the rate being three *per cent* of the contract amount after deducting the purchase value of goods consigned into the State or stock transfer or purchase from outside

the State and for the purchase value of goods so deducted, to pay tax at the scheduled rate applicable to such goods.

During cross verification of data obtained from the Custom House at Cochin Port it was found that in respect of four out of twenty-one cases test checked, the assesses failed to disclose import purchases of tiles, marbles, elevators, air conditioning units etc resulting in short levy of tax amounting to ₹ 4.39 crore as detailed below:

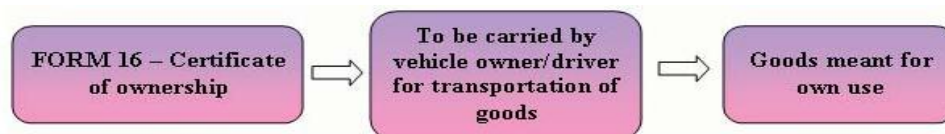
(₹ in lakh)

Sl. No.	Name of the assessee	Commodity imported	Turnover escaped assessment	Short levy including interest and penalty
1.	M/s Abad Builders	Escalators, Air conditioners, furniture	184.64	75.30
2.	M/s Choice construction	Escalators	151.91	61.95
3.	M/s Puravankara Projects	Elevators, aluminium structures	412.29	168.13
4.	M/s Tamara Real Estate Holding and Developments (P) Ltd	Furniture	109.89	44.81
Total				438.59

The Government may consider introducing a system of obtaining information periodically from other Departments/Boards etc. in respect of the persons registered with them and cross verify the same with KVATIS to trace the dealers whose turnover crossed the threshold limit and are liable for registration with the CTD.

2.11.12.5 Goods meant for own use – Form 16

The VAT Act envisages production of ownership certificate for availing exemption from payment of tax on goods transported for own use.



As per Rule 58(18) of KVAT Rules 2005, every person other than a registered dealer, who consigns any goods by any vehicle or vessel, where the transport is not in pursuance of a sale, shall issue a certificate of ownership in Form 16. Later (March 2007) the procedure laid down for transport of goods for 'own use' was extended to registered dealers also.

It was found that there was considerable increase in transportation of goods for own use by registered as well as unregistered dealers leading to evasion of tax under cover of Form 16 as detailed below:

Name of institution from which data was collected	Number of cases in which transportation of goods was effected with Form 16 and received in the Intelligence Offices from check posts for further verification.				
	2006-07	2007-08	2008-09	2009-10	2010-11
DC(I), Kozhikode	9	18	33	269	1237
DC(I), Ernakulam	0	12	54	261	1480
DC(I), Thiruvananthapuram	0	0	0	302	1382
Total	9	30	87	832	4099

The above table indicates that after dispensing with the requirement of countersignature by the assessing authorities there was a steep rise in submission of form 16. The number of forms increased from nine in 2006-07 to 4099 in 2010-11 registering increase of 4090 forms. This indicates that there is a need for investigation of the correctness of the forms.

After this was pointed out in audit, the Government stated (November 2012) that in the absence of Entry Tax Act, purchase of material from outside the state for own use cannot be effectively curbed. The reply is not relevant to the point raised. It further stated that the matter is being attended to on the basis of instructions already issued. Further developments are awaited.

Taking into consideration the potential misuse of items covered by Form 16, it is recommended that, the assessing authorities/intelligence wing may follow-up on goods brought into the State to prevent their misuse.

2.11.12.6 Evasion due to neglected areas in KVATIS

As the economy is expanding, new commodities and methods of value addition are taking place. As a major source of revenue earner, the Department has to keep pace with these developments and identify newer areas of taxation and new methods of evasion practised by dealers for taking remedial measures. Some of the areas identified by audit are discussed below:

Transfer of right to use

Sale means any transfer of property in goods by one person to another in the course of trade or business for valuable consideration. As per Section 6(1)(c) of the KVAT Act, in the case of transfer of right to use any goods for any purpose whether or not for a specified period, tax shall be levied at the rate of four *per cent* at all points of such transfer. However, due to lack of clarity regarding transaction falling under transfer of right/intangible goods, tax was not levied in the following cases:

In the Special Circle, Thiruvananthapuram, an assessee, the Kerala State Road Transport Corporation received ₹ 6.15 crore during the period 2006-07 to 2010-11 as income from advertisement on bus bodies which come under transfer of right to use did not assess the same to tax. This resulted in non-levy of tax including interest of ₹ 0.34 crore.

After this was pointed out in audit, the Government stated (November 2012) that action has been initiated to complete the assessment. Further developments are awaited (December 2012).

As per Entry 68 of the Third Schedule of the Act, intangible goods like Copyright, patent, REP Licence etc are taxable at the rate of four *per cent*. In two ¹² offices, right to use in respect of goodwill and sale of intangible assets like patent, copyright etc were not assessed resulting in short levy of tax including penalty and interest amounting to ₹ 2.17 crore.

It is recommended that the Government may consider notifying the transactions that come under the scope of intangible and incorporeal goods exigible to tax as featured in the Schedule attached to the Maharashtra VAT Act.

2.11.12.7 Failure to detect evasion

There is a general tendency among dealers in evasion prone commodities to evade tax through new methods. Identification of such attempts of tax avoidance is possible only through constant surveillance and intelligence operations and issue of necessary guidelines to curb such practices.

(i) Absence of uniformity in valuation of Day old chicks (DOC)

The Kerala State Poultry Development Corporation (KEPCO) is a Government of Kerala undertaking doing the business of selling DOC to farmers. The farmers in Kerala also effect inter-state purchase of DOC. While the average yearly market rate of (2010-11) KEPCO is ₹ 21 and tax rate is 12.5 *per cent*, in the case of inter-state purchase (2010-11) the farmers conceded the cost of DOC as ₹ 11.72 only and paid tax at the border check post. The Department has not fixed a floor rate for DOC which resulted in undervaluation of DOC and escape of turnover of ₹ 30.42 crore and consequent loss of revenue of ₹ 3.84 crore.

(ii) In Special Circle, Palakkad, an assessee conceded (2006-07 to 2010-11) sale price of DOC in the range of ₹ 5.05 to ₹ 12.56. However, the average market price of DOC furnished by M/s KEPCO was in the range of ₹ 10.50 to ₹ 21.41 during these years. The minimum turnover calculated at the KEPCO rate comes to ₹ 35.98 crore, involving short levy of tax of ₹ 14.87 crore. No floor rates were fixed by the Department, resulting in forgoing of revenue to that extent.

After this was pointed out in audit, the Government stated (November 2012) that floor rates have since been fixed and circular instructions issued. Further developments are awaited (December 2012).

(iii) Sale of chicken through Kunjipally check post to Mahe

Live chicken is transported to Mahe (a part of Puducherry with an area of 9 sq kms and a population of only 41,934 (2011 Census), through Commercial Tax Check Post (CTCP), Gopalapuram using transit pass which is surrendered at CTCP, Kunjipally four kms away from Mahe. Scrutiny revealed that during the year 2010-11, for nine months 63.88 lakh kilograms of live chicken was transported. The data for the remaining three months though called for was not made available despite being requested. The average transportation of live

¹² Spl. Circle, Malappuram and Spl. Circle (Produce) Mattancherry

chicken for the year was 85.18¹³ lakh kilograms. Taking into account the per capita average annual consumption of poultry meat in India as per the National Institute of Nutrition data, the chicken that could be consumed in Mahe was 5.04 lakh kilograms. The possibility that the excess quantity of 80.14 lakh kilograms of live chicken would have been sold in the State of Kerala can not be ruled out.

The revenue loss on this account could be curbed only if the CTCP, Kunjipally was re-located at the entry/exit point to/from Mahe from the present location which is four kms away from Mahe.

After this was pointed out in audit, the Government stated (November 2012) that the intelligence wing has been strengthened to prevent such activities effectively. Further developments are awaited (December 2012).

2.11.12.8 Encouragement of evasion through regularisation of Bogus C/F forms

The inter-state cross verification report (February 2012) of declarations in Form C/Form F issued by the dealers in other states and submitted by the cashew dealers in the State of Kerala, by the Commercial Investigation Wing (CI) of the CTD revealed that 68 declarations in Form F covering a turnover of ₹ 1,501.02 lakh and 55 declarations in Form C covering a turnover of ₹ 1,003.57 lakh (total ₹ 2,504.92 lakh) relating to the period from 2005-06 to 2007-08 were found to be bogus and the short levy of tax, interest and penalty liable to be levied was ₹ 9.90 crore. The Department did not proceed further, considering that in similar cases, on representation by the dealers in cashew, availing of concessional rate of tax on their inter-state sales/stock transfer by producing bogus declarations in Form C/Form F relating to the period from 2003-04 to 2005-06, the Government in addition to regularising the bogus C/F Form declarations had ordered (July 2008)¹⁴, waiver of penalty, interest and all amount in excess of four percent which were due and leviable under the CST Act, as a one time measure.

The Government's decisions to regularise fraudulent C/F Forms had an adverse effect on departmental officers in taking timely and strict action against dealers who indulged in fraudulent transactions. The Government stated (November 2012) that the concession allowed was as a part of the package made in the Budget speech (2007-08) by the Hon'ble Finance Minister and was done in public interest.

The Government stated (November 2012) that the intelligence wing has been strengthened to effectively prevent such activities. Further developments are awaited (December 2012).

It is recommended that while taking policy decisions the Government and top management of the Department may give utmost priority to honest trade

¹³ Based on the sale of Chicken for nine months made in State.

¹⁴ GO (Ms) No.136/08/TD dated 7.7.2008

practices by ensuring timely and strict action against violation of the Act and initiate measures to strengthen control system and avoid tax evasion.

2.11.12.9 Inaction on bogus statutory forms detected by the Department

The investigation teams verified the genuineness of declaration forms in the respective Commercial Tax Offices in New Delhi, Chattisgarh, Tamil Nadu, Karnataka, Andhra Pradesh and Maharashtra. Despite reports (May 2008 and March 2012) of investigation wing regarding evasion by use of bogus C/F forms in respect of 38 declarations covering a turnover of ₹ 80.96 lakh (out of 39 declarations in respect of Delhi and Chattisgarh) and 747 declarations covering a turnover of ₹ 1,873.60 lakh issued from Maharashtra relating to the period 2005-06 to 2009-10, the Department did not take any action to recover the tax of ₹ 5.03 crore recoverable in these cases.

2.11.12.10 Delay in revision of floor rate in respect of plywood

As per the directions of the CTD (April 2005) dealers had to pay the CST in advance on the inter-state sale of plywood at the checkpoints. The Department fixed (February 2007) the floor rates for plywood based on the report of an expert committee consisting of Deputy Commissioners. The rate fixed earlier was proposed to be revised (August 2009) with a hike of fifteen *per cent*. Even though it was agreed to (April 2010) by the dealers, the rates were revised only in November 2011. The delay in revision of floor rates resulted in forgoing of revenue of ₹ 2.02 crore during 2010-11.

2.11.12.11 Conclusion

No specific action plan has been initiated by the Department to bring in the dealers liable for registration under the tax net. Lack of co-ordination between the intelligence wing and the assessment wing was evident from the non-utilisation of secondary data for scrutiny of returns filed by dealers.

It was found that Government/top management did not evolve a mechanism whereby strict action could be taken against dealers who indulged in fraudulent transactions. Despite initiative of the intelligence wing in timely revision of floor rates, there was delay/failure on the part of the Department in fixing the same.

2.11.12.12 Summary of Recommendations

The Government/Department may consider:

- ❖ restoring audit assessment wing, Commercial Investigation Wing, and strengthen the Internal Audit Wing to ensure compliance of the provisions of the Acts and Rules and advise the Department to scrutinise annual returns of dealers beyond a fixed limit;
- ❖ introducing a system of obtaining information periodically from other Departments/Boards etc. in respect of the persons registered with them and cross verify the same with KVATIS to trace the dealers

whose turnover crossed the threshold limit and are liable for registration with the CTD;

- ❖ taking into consideration the potential misuse of items covered by Form 16, follow up on action on goods brought into the State to prevent its misuse;
- ❖ notifying the nature of transactions which would come under the scope of intangible and incorporeal goods exigible to tax as featured in the Schedule attached to the Maharashtra VAT Act; and
- ❖ taking timely action to revise floor rates in respect of evasion prone commodities and give utmost priority to honest trade practices by ensuring timely and strict action against violation of the Act and initiate measures to strengthen control system and thereby avoid evasion.

2.12 Other audit observations

Assessment records of sales tax/value added tax (VAT) in Commercial Taxes Department were scrutinised in Audit and found several cases of non-observance of provisions of the Acts/Rules, non/short levy of tax/penalty/interest, incorrect determination/classification of 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 (AA) are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of the internal audit to ensure that such omissions are detected and rectified.

2.13 Non-observance of provisions of Acts/Rules

The Kerala General Sales Tax/Kerala Value Added Tax/Central Sales Tax Acts and Rules made there under provide for:

- (i) levy of tax/interest/penalty at the prescribed rate;*
- (ii) allowing exemption of turnover subject to fulfilment of the prescribed conditions; and*
- (iii) allowance of input tax credit as admissible.*

It was noticed in Audit that the AAs while finalising the assessment did not observe some of the provisions which resulted in non/short levy/non-realisation of tax/interest/penalty of ₹ 67.52 crore as mentioned in the paragraphs 2.13.1 to 2.13.15.2

Value Added Tax

2.13.1 Turnover escaped assessment

2.13.1.1 (CTO Special Circle, Palakkad, Kottayam and I Circle, Kottayam)

Under Section 42(2) of KVAT Act 2003, if there is omission or mistake in annual return with reference to audited figures, the assessee is required to file revised annual return along with the audited statements and if tax liability increases he shall file proof of payment of balance tax, interest thereon and twice interest as penal interest.

Cross verification of Audited Accounts attached with the VAT Returns furnished by four assesseees for the period from 2005-06 to 2009-10 revealed that the assessee had depicted their turnover short by ₹ 45.96 crore. The returns filed by the dealers for the period from 2005-06 to 2008-09 were accepted by the Department as self assessed without any verification. Accepting of incorrect returns resulted in short realisation of tax of ₹ 5.97 crore.

After this was pointed out in audit, the Government accepted the audit observation in two cases and created additional demand of ₹ 49.21 lakh; their reply in the remaining cases has not been received (December 2012).

2.13.1.2 (CTO(WC), Ernakulam)

Under Rule 10(2) of KVAT Rules 2005, in relation to works contract, where the transfer is not in the form of goods, the taxable turnover is arrived at after deducting labour and other charges specified therein from the contract receipts. If it is not ascertainable from the books of accounts of the dealer, the total turnover in respect of such works contract shall be computed after deducting labour and other charges at the percentage prescribed therein. Labour and other charges deductible in works contract involving installation of plant and machinery is 15 *per cent*.

GR Engineering (P) Limited engaged in works contract had a contract receipt of ₹ 39.31 crore during 2008-09. As per annual return the dealers used goods obtained through local and inter-state purchases and interstate stock transfer for ₹ 26.52 crore and did not file detailed account of labour and other charges. The taxable turnover after granting deduction of ₹ 5.90 crore aggregated ₹ 33.41 crore. The assessee

however claimed deductions of ₹ 30.19 crore and assessed only ₹ 9.12 crore to tax. This resulted in short levy of tax, cess¹⁵ and interest of ₹ 3.74 crore.

The matter was pointed out to the Department (March 2011) and reported to Government (February 2012). The Government stated (October 2012) that the assessment was completed (December 2011) under Section 25(1) disallowing the claim for exemption. Further report has not been received (December 2012).

- (Office of the Assistant Commissioner (WC & LT), Ernakulam)

M/s PC Thomas and company, an Engineering company had a total contract receipt of ₹ 10.66 crore during 2008-09 out of which ₹ 3.18 crore related to labour as per the accounts. Though the administrative, selling and other expenses, profit element etc. to the extent of supply of labour amounting to ₹ 76.22 lakh were only deductible from the contract receipt along with labour charges of ₹ 3.18 crore, the assessee availed deduction of ₹ 6.19 crore, the entire cost of establishment and other overhead charges and profit without limiting them to the extent they are relatable to the supply of labour and service. This resulted in short levy of tax, cess and interest of ₹ 26.56 lakh.

The matter was pointed out to the Department (March 2011) and reported to Government (February 2012); their reply has not been received (December 2012).

¹⁵ Finance Act 2008 introduced cess at one *per cent* on the tax payable under Section 6 and 8 of KVAT and Section 5 and 7 of KGST Act to fulfill commitment of the Government to provide and finance a comprehensive Social Security Scheme.

2.13.1.3 (CTO Special Circle II, Ernakulam)

Explanation to Rule 10(2)(b) of KVAT Rules 2005 stipulates that no deductions shall be allowed out of the total contract amount for the supply and installation of any machinery equipment or any other system where the goods involved are assembled and installed and the labour employed for installation is only incidental to the supply of such goods. It was judicially held¹⁶ that if the major component of the end product is the material consumed in producing the chattel to be delivered and skill and labour are employed for converting the main components into the end products but the skill and labour are only incidentally used then the delivery of the end product by seller to the buyer will constitute a sale and not works contract.

M/s Blue Star Limited was an assessee engaged in trading as well as supply, erection, testing and commissioning of air conditioning system.

Since the dealer deals in the supply of air conditioners, 'erection and commissioning of air conditioners' is not works contract but a sale. But the assessee availed exemption for ₹ 9.44 crore and ₹ 4.36 crore towards labour and other charges for the years 2008-09 and 2009-10 which is actually, incidental to sale of air conditioners. Thus incorrect exemption resulted in short levy of tax amounting to ₹ 2.22

crore including interest.

This was pointed out to the Department (December 2011) and reported to Government (June 2012); their reply has not been received (December 2012).

- (CTO, Special circle II, Ernakulam)

M/s Kone Elevators India Pvt. Ltd. was an assessee who was dealing with supply and installation of elevators and escalators, annual maintenance contract etc. They claimed exemption of ₹ 6.25 crore towards installation of lift executed through sub contractors. As installation of lift is part of sale, deduction of labour element is not admissible. Moreover, as the work involves labour alone it is not liable to tax in the hands of sub contractor. It was noticed (November 2011) from the assessment records of the assessee that the assessing authority also did not disallow the exemption. This resulted in short levy of tax, cess and interest of ₹ 93.17 lakh.

This was pointed out to the Department (November 2011) and reported to Government (June 2012); their reply has not been received (December 2012).

¹⁶ Kone Elevators (India) Pvt. Ltd. Vs. State of Andhra Pradesh [140 STC 22(SC)].

2.13.1.4 (CTO (WC & LT), Pathanamthitta)

Under Rule 10(2) (a) of KVAT Rules, in the case of works-contract where transfer of property take place not in the form of goods, taxable turnover is arrived at after deducting labour charges and other charges specified therein from the contract receipts. However, as per the proviso there under when the turnover arrived at after allowing the eligible deduction falls below the cost of goods transferred in the execution of works contract an amount equal to the cost of goods transferred in execution of contract, together with profit shall be taxable turnover in respect of such works contract.

Sri K. N. Madhusoodhanan, a works contractor had a total works contract receipt of ₹ 22.82 crore during 2008-09. It was noticed (November 2010) from the annual accounts of the assessee that the admissible deductions¹⁷ were only ₹ 9.47 crore. Thus the taxable turnover should have been ₹ 13.36 crore. However, the assessee claimed exemption of ₹ 12.99 crore to arrive at the taxable turnover of ₹ 9.84 crore on which output tax of ₹ 78.72 lakh was computed. This resulted in escape of

turnover of ₹ 3.52 crore and consequent short levy of tax and interest of ₹ 52.42 lakh.

After this was pointed out to the Department (November 2010) the assessing authority stated (December 2010) that notice had been issued to the dealer.

The matter was reported to the Government in April 2012; their reply has not been received (December 2012).

2.13.1.5 (CTO, Special circle, Kollam)

Under explanation V to Section 2(lii) of KVAT Act, 2003, where a dealer receives in any return period any amount due to price variation in respect of any sale effected during the earlier return period, such amount shall be deemed to be turnover relating to return period in which such amount is received.

M/s United Electrical Industries Ltd. is a dealer in electrical goods. As per annual return filed for the year 2007-08, the assessee was assessed to tax of ₹ 24.78 crore. It was noticed that the dealer received an amount of ₹ 2.70 crore during 2007-08 towards price

variation. This had to be included in the sales turnover. But the assessee did not include this amount in the turnover of ₹ 24.78 crore conceded in the annual return. This resulted in short levy of tax of ₹ 40.77 lakh.

¹⁷ Allowable deductions in this case being consumables, hire charges, sale expenses, testing and commissioning, transportation, wages and salary.

The matter was pointed out to the Department (April 2010) and reported to Government (June 2012); the Government stated that the assessee included in their accounts the increase in prices expected to be received during the year subjected to approval of Government and hence the amount was not assessed to tax. Reply is not correct since the amount has been recognised by the auditors and receipt has been shown clearly in the P&L account. Moreover the sales turnover as per annual accounts was arrived at including the price variation.

2.13.1.6 (CTO, Special Circle, Kottayam)

Under Section 25 of the KVAT Act, if for any reason, whole or any part of the turnover of business of a dealer had escaped assessment to tax in any year, assessing authority may proceed to determine to best of his judgement, the turnover which has escaped assessment to tax and assess tax payable on that turnover within five years from the last date of the year to which the return relates.

M/s Lamy Agencies, Kottayam, a dealer in medicine had an inter-state purchase/stock transfer of medicine for ₹ 10.39 crore during 2009-10 as per the extract of issue register of C/F forms submitted by the assessee to the Department. But the assessee disclosed interstate purchase/stock transfer of ₹ 5.60 crore only in

the annual return. The assessing authority did not detect the suppression of purchase turnover of ₹ 4.79 crore. This resulted in short levy of tax, cess and interest which works out to ₹ 40.32 lakh.

After this was pointed out to the Department in August 2011, the Department stated (December 2011) that notice had been issued to deposit the escaped tax. Further report has not been received (December 2012).

The case was reported to the Government (February 2012); their reply has not been received (December 2012).

- (CTO, Second circle, Kalamassery)

M/s Mapsons & Co. Auto (P) Ltd. is a dealer in automobile spare parts, accessories and generators. They conceded a taxable turnover of ₹ 10.48 crore as per annual return for 2009-10 for which OPT was assessed.

It was noticed in Audit (April 2011) that the turnover of the dealer for 2009-10 based on copy of the Sales Register of assessee made available by the intelligence squad was ₹ 11.20 crore. No action was taken to assess the tax as required under Section 25. This resulted in short levy of tax, cess and interest of ₹ 8.12 lakh on the differential turnover of ₹ 72.06 lakh.

After this was pointed out in April 2011, the Department in December 2011 informed that the assessment was revised and demand notice issued for ₹ 37.15 lakh. Further report has not been received (December 2012).

The matter was reported (June 2012) to the Government; their reply has not been received (December 2012).

2.13.1.7 (CTO, Special Circle, Kottayam)

As per entry 134 of List A annexed to III Schedule to KVAT Act, sales turnover of natural rubber latex of all qualities are taxable at the rate of four *per cent*.

It was noticed (August 2011) from the audited accounts of M/s Plantation Corporation of Kerala Ltd for the year 2009-10 that the Corporation received an amount of ₹ 3.29 crore as slaughter tapping income from rubber plantation and prior period income. However, the

assessing authority did not assess the same to VAT. This resulted in short levy of tax, cess and interest amounting to ₹ 15.29 lakh.

After the matter was pointed out in August 2011 to the Department and reported to Government (February 2012); the Government stated (August 2012) that assessment was finalized (October 2011) based on audit observation for which assessee filed appeal before DC (Appeal) Kottayam who stayed collection. Further remarks have not been received (December 2012).

2.13.1.8 (CTO, III circle, Thrissur)

Under KVAT Act, 2003 motor bodies built on chassis of motor vehicles are liable to be taxed at 12.5 *per cent*. It was judicially held¹⁸ that construction of body on a vehicle is a contract of sale.

It was noticed (July 2011) from the assessment records of M/s PSN Industries (P) Ltd. that the assessee did

not assess to tax an amount of ₹ 82.25 lakh received as labour charges while completing the self assessment during 2009-10. Though labour charges are not deductible from receipts on bodies built on chassis of motor vehicles, the assessing officer did not levy tax on the amount. This resulted in short levy of tax, cess and interest of ₹ 11.84 lakh.

The matter was pointed out in August 2011 to the Department and reported to Government (November 2011). Further information has not been received (December 2012).

• (CTO, III circle, Thrissur)

It was noticed (July 2011) from the assessment records of M/s PSN Motors (P) Ltd. for 2008-09 that the assessee engaged in body building did not assess to tax an amount of ₹ 50.43 lakh received towards labour and ₹ 25 lakh being the value of iron and steel transferred, was assessed at four *per cent*. Though cost of materials used and labour involved in body building of vehicles are to be included in the sales turnover of body built, the assessing officer did not levy tax on the above amount at the correct rate of 12.5 *per cent*. This resulted in short levy of tax, cess and interest of ₹ 9.70 lakh.

¹⁸ Mckenzie Ltd. Vs State of Maharashtra (SC)

This was pointed out to the Department (July 2011) and reported to Government (November 2011). Their reply has not been received (December 2012).

2.13.1.9 (CTO I circle, Alappuzha)

As per entry 110 of III Schedule to KVAT Act, safety matches are taxable at four per cent. Handmade safety matches are exempted from tax under entry 24 of I Schedule to the Act.

M/s Royal Enterprises, Alappuzha is an assessee dealing with tobacco products, safety matches, cigarettes etc. The assessee filed annual return for the

year 2009-10 conceding total and taxable sales turnover of ₹ 32.67 crore and ₹ 30.76 crore respectively.

It was noticed (May 2011) from the annual return that the assessee claimed exemption on a turnover of ₹ 1.91 crore relating to machine made safety matches sold during 2009-10 as if it were hand made. Incorrect exemption availed resulted in turnover escaped assessment and consequent short levy of tax and interest of ₹ 8.63 lakh.

The matter was pointed out (May 2011) to the Department and reported (November 2011) to Government; Government stated (March 2012) that assessment was revised (December 2011) creating an additional demand of ₹ 9.17 lakh including interest. Further information has not been received (December 2012).

2.13.1.10 (CTO, Chavakkad)

Under explanation III(i) to Section 2(lii) of KVAT Act 2003, the amount for which goods are sold shall include any sum charged for anything done by the dealer in respect of the goods sold at the time of, or before, the delivery thereof.

M/s Rajah Timber Company, Chavakkad was a dealer in timber, furniture, fibre foam etc.

It was noticed (December 2010) from the assessment records for 2008-09 that the assessee self assessed to tax a sales turnover of ₹ 2.74 crore only. The sales turnover as per annual accounts for the year was ₹ 3.29 crore. Thus, turnover of ₹ 54.75 lakh escaped assessment. This resulted in short levy of tax, cess and interest of ₹ 7.56 lakh.

After this was pointed out in December 2010 to the Department and reported to Government (June 2012); the Government stated (September 2012) that turnover escaped was assessed to tax under Section 25(1) of KVAT Act (March 2011). Further report has not been received (December 2012).

- (CTO, (WC&LT), Mattancherry)

M/s Anchor Structural, was a works contractor engaged in production and supply of electric post to KSEB. They disclosed taxable turnover of ₹ 5.72 crore and ₹ 5.49 crore for 2008-09 and 2009-10 respectively.

It was noticed (May 2011) from the assessment records that the assessee did not include in their taxable turnover the transportation charges of ₹ 1.53 crore received during 2008-09 and 2009-10 for delivery of poles at site. The escape of turnover from assessment resulted in short levy of tax, interest and cess of ₹ 7.27 lakh.

After the matter was pointed out (May 2011) to the Department and reported to Government (December 2011); Government stated (October 2012) that in light of the audit observation the assessments were completed (September 2011) under Section 25 of KVAT Act. Recovery report is awaited (December 2012).

2.13.1.11 (CTO(WC), Ernakulam)

Section 8(a)(i) of KVAT Act stipulates that any works contractor not being a dealer having CST registration or effecting first taxable sale in the State may, subject to payment of tax under Section 6 (2) of the Act, pay tax at the rate of two *per cent* on the whole contract amount received during 2007-08. Those assessee availing compounded rate are not eligible for any deductions. If tax due is not paid within the time prescribed, simple interest at the rate of 12 *per cent* per annum is leviable under Section 31(5) of the Act.

M/s K.M. Elias Constructions (P) Ltd, Kakkanad was a works contractor.

It was noticed (January 2010) from the assessment records that the assessee for the financial year 2007-08 had worked out the taxable turnover as ₹ 5.47 crore against contract receipts of ₹ 7.62 crore. The balance ₹ 2.16 crore was availed as deductions. However, availing of deductions from the contract amount was not allowed in the case of compounding as per

provisions of KVAT Act. As a result, turnover of ₹ 2.16 crore escaped assessment. The consequent short levy of tax and interest worked out to ₹ 5.18 lakh.

The matter was pointed out to the Department (March 2010) and reported (June 2012) to Government; their reply has not been received (December 2012).

2.13.1.12 (CTO (Special Circle), Thiruvananthapuram)

Under KVAT Act 2003, turnover related to transfer of right to use is taxable at the rate of four *per cent*. Energy meters provided at customers premises for measuring electricity supplied collecting rental charges is transfer of right to use meters.

The chief Engineer (Distribution South), KSEB engaged in generation, transmission and distribution of electrical energy collected rental charges of energy

meters amounting to ₹ 835.63 crore during the period from 2005-06 to 2010-11. The meters installed in the premises of the consumer were owned by the Board. Board was collecting rental for the meters from the consumers and hence the supply of meters to consumers was transfer of right to use meters. The assessee did not include the above turnover in the taxable turnover when the tax was self assessed as revealed by the annual return. The assessing officer also did not assess the above turnover resulting in non levy of tax, cess and interest of ₹ 43.16 crore

The matter was pointed out to the Department (between December 2010 and November 2011), the assessing authority stated (between August and December 2011) that meters are installed at consumers premises only to facilitate the KSEB to record the usage of electricity by the consumers who are not using them for any purpose and have no access at all. It was also stated that, meters are under the possession of the Board, the consumers have no right to use this meter and hence could not be classified as goods within the meaning of explanation V to Section 2(x/iii) of KVAT Act. The reply is not correct as the transaction questioned by audit clearly comes under transfer of right to use in view of collection of rent from consumers and is rightly taxable at the rate of four *per cent*.

2.13.2 Short levy of tax due to non-reckoning of turnover for assessment

Explanation VII under Section 2(lii) of the KVAT Act 2003, stipulates that where a dealer sells any goods purchased by him at a price lower than that at which it was purchased and subsequently receives any amount from any person towards reimbursement of the balance price, the amount so received shall be deemed to be turnover in respect of such goods.

It was noticed between August 2009 and December 2011 that in seven offices, the subsidy/ discount received in 10 cases were not reckoned as turnover for assessing to tax for the period from 2006-07 to

2009-10. This resulted in short levy of tax of ₹ 2.07 crore including cess and interest as detailed in the following table:

(₹ in lakh)

Sl No.	Name of assessee Name of office	Discount/ subsidy received Year	Tax effect involved	Remarks
1	M/s Madras Fertilizers CTO, Spl. Circle II, Ernakulam	3133 2009-10	151	No reply was received from the Department/Government.
2	AB Traders CTO, Spl. Circle, Thiruvananthapuram	52.88 2008-09	7.88	No reply was received from the Department.
3	M Abubeker CTO, Spl. Circle, Thiruvananthapuram	27.08 2008-09	4.03	The Department issued a show cause notice to the dealer.
4	Koovalathara Traders CTO, Spl. Circle, Kollam	22.00 2009-10	3.03	The Government accepted the case and revised the assessment. Progress made on recovery has not been received.
5	West Cost Agencies CTO, Spl. Circle, Kollam	36.59 2009-10	5.04	No reply was received from the Department/ Government.
6	M/s Pan Marketing CTO, Spl. Circle, Kottayam	77.00 2009-10	11.11	The Government stated that turnover in question related to credit note for interstate purchase. The reply is not in consonance with the accounts of the dealer where it is specified that ₹ 77 lakh was received on account of off take discount
7	M/s M&M Associates CTO, II Circle, Kollam	64.94 2006-07	10.31	The Department accepted the case and revised assessment against which assessee filed appeal which was disposed with directions to consider eligible IPT for which verification is pending.
8	M/s Western IT Distributors CTO, IV Circle, Ernakulam	143 2009-10	7.13	The Government accepted the case and assessment was revised demanding tax and interest of ₹ 4.49 lakh. Audit further noticed that the AA did not assess ₹ 57.93 lakh pointed out by audit stating that it related to cash discount which already had reflected in the purchase accounted. It is not correct as the account specifically shows cash discount, received in addition to the purchase value accounted.
9	M/s Peekay Cement CTO, Kodungalloor	25.23 2009-10	3.76	The Government stated (November 2012) that on random checking sales price seems to be more than purchase price and hence there is no scope for assessing the turnover of discount received. Reply is not tenable since the random checking will not give the correct picture. The annual accounts

Sl No.	Name of assessee Name of office	Discount/ subsidy received Year	Tax effect involved	Remarks
				shows that but for the discount received, sales would have been at a loss.
10	M/s K.K Seethi CTO, Kodugalloor	23.72 2009-10	3.53	The Government stated (November 2012) that on a random checking of the purchase and sales invoices it was found that sales price is more than purchase price and hence there is no scope for assessing the turnover in question. The reply is not correct as it is clear from the audited accounts of the assessee for the year that but for the discount/incentive received, the sale would be in loss and the discount which is in reimbursement nature is rightly assessable to tax.
Total			206.82	

2.13.3 Short levy of tax due to misclassification of commodity

2.13.3.1 (CTO, Special Circle, Thrissur)

Rice flour (puttupodi and the like) is taxable at four *per cent* under entry 48(4) of schedule III to KVAT Act.

It was noticed (July 2011) from the annual returns filed by Manjilas Agro Foods (P) Ltd. that the sales turnover in respect of rice products like puttupodi etc. amounting to

₹ 25.41 crore was taxed at one *per cent* during 2009-10 which included sales turnover of puttupodi of ₹ 24.81 crore taxable at the rate of four *per cent*. Application of incorrect rate of tax resulted in short levy of tax, cess and interest of ₹ 87.19 lakh.

The matter was pointed out to the Department (July 2011) and reported to Government in March 2012; their reply has not been received (December 2012).

2.13.3.2 (CTO, Special circle II, Ernakulam)

Under KVAT Act, 2003, motor vehicles are taxable at 12.5 *per cent* and used vehicles are taxable at 0.5 *per cent*. Under Section 2(lia) of the Act, used motor vehicle means a motor vehicle purchased and registered under the provisions of the Motor Vehicles Act 1988 (Central Act 59 of 1988) and used for a minimum period of fifteen months subsequent to the registration.

M/s Rajasree Motors, a dealer in motor vehicles, motor vessels, used motor vehicles etc. had a sales turnover of ₹ 68.80 crore which included a sales turnover of ₹ 3.40

crore relating to used vehicles during the financial year.

It was noticed (November 2011) from the assessment records for 2009-10 of the assessee that they assessed to tax the sale value of six motor vehicles costing ₹ 1.59 crore at the rate of 0.5 *per cent* treating them as used vehicles. Since these vehicles were not used for a minimum period of 15 months subsequent to the registration, they could not be treated as used vehicles. Failure to assess these vehicles at 12.5 *per cent* resulted in short levy of tax, interest and cess of ₹ 22.77 lakh.

After this was pointed out (November 2011) in audit the assessing authority stated (November 2011) that the cars were used as demo cars and they had no value addition. The reply is not acceptable since tax at 0.5 *per cent* is not applicable to them for the reason that they would not fall under the definition of used cars. Further report has not been received (December 2012)).

The matter was reported (June 2012) to Government; their reply has not been received (December 2012).

- (CTO, Special circle II, Ernakulam)

M/s Indus motor Co (P) Ltd, Kochi is a dealer in motor vehicles and motor vessels of all kinds. We noticed from the assessment records for the financial years 2008-09 and 2009-10 that a turnover of ₹ 76.56 lakh and ₹ 56.17 lakh were assessed at 0.5 *per cent* being classified as ‘used cars’. However, these vehicles were not coming under the category of used cars being vehicles less than 15 months old. This resulted in short levy of tax, cess and interest of ₹ 20.10 lakh.

This was pointed out to the Department (November 2011) and reported to Government (March 2012); their reply has not been received (December 2012).

2.13.3.3 (CTO, IV Circle, Thrissur)

Under KVAT Act, 2003 abrasives including grinding stones are taxable at the rate of 12.5 *per cent* and cotton waste is taxable at the rate of four *per cent*.

M/s Poothokkaran Agencies, Thrissur, a dealer in abrasives, grinding wheels and waste cotton, had an aggregate

turnover of ₹ 89.27 lakh for the years 2008-09 and 2009-10.

It was noticed (July 2011) from the assessment records that though abrasives and grinding wheels are taxable at 12.5 *per cent* and cotton waste at four *per cent* the assessee applied four *per cent* on the entire turnover. This resulted in a short levy of ₹ 9.02 lakh as shown below:

(₹ in lakh)

Year	Turnover of abrasives, grinding wheel	Rate applicable (per cent)	Rate applied (per cent)	Short levy at differential rate of 8.5 per cent	Cess @ 1 per cent	Interest	Total
2008-09	27.60	12.5	4	2.35	0.02	0.62	2.98
2009-10	61.67	12.5	4	5.24	0.05	0.74	6.04
Total	89.27						9.02

The matter was pointed out to the Department (July 2011) and reported to Government (February 2012); further report has not been received (December 2012).

2.13.4 Short levy of tax due to application of incorrect rate of tax

2.13.4.1 (CTO, Special Circle II, Ernakulam)

Under KVAT Act Dietary Supplement and branded confectionary are items taxable at 12.5 per cent.

M/s Daehsan Trading India (P) Ltd. an assessee exclusively dealing with the products of the holding

company (DXN) filed annual return disclosing the total and taxable turnover as ₹ 15.01 crore for the financial year 2009-10.

It was noticed (November 2011) from the assessment records that out of the total turnover, ₹ 6.34 crore was assessed at four per cent in the guise of unbranded confectionery and medicines. However, these products are actually branded products or dietary supplements like Ganocelium (GL), Reishi Gano (RG), Spirulla-300, taxable at 12.5 per cent. This resulted in short levy of tax including cess and interest of ₹ 64.19 lakh.

After this was pointed out (November 2011) in audit, the assessing authority issued notice under Section 25(1) to revise the assessment (December 2011).

The matter was reported to Government (July 2012); their reply has not been received (December 2012).

2.13.4.2 (CTO(WC & LT), Kottayam)

As per Section 6(1) (f) of KVAT Act, in the case of transfer of goods in the execution of works contract, where the transfer is not in the form of goods, but in some other form tax is to be levied at the rate of 12.5 per cent and when the transfer is in the form of goods at the rates prescribed under the respective schedules. Turnover relating to foundation work, copper etc, are taxable at 12.5 per cent.

M/s Thalupula Engineering Company was a works contractor engaged in Railway electrification work. The KVAT assessment for 2007-08 of the assessee was finalised fixing total and taxable turnover as ₹ 6.91 crore, of which ₹ 2.88 crore related to transfer value of

foundation work and copper which were taxable at 12.5 *per cent*.

It was noticed that the assessing authority finalised the assessment applying four *per cent* on aggregate turnover of ₹ 6.91 crore including ₹ 2.88 crore taxable at 12.5 *per cent*. This resulted in short levy of tax, cess and interest of ₹ 31.62 lakh.

After this was pointed out to the Department (September 2010) and reported to the Government (February 2012) the Government accepted (November 2012) the Audit observation and stated that assessment was finalised (March 2012). Recovery report has not been received (December 2012).

2.13.4.3 (CTO(WC & LT), Ernakulam)

Under Section 8(a) of the KVAT Act, 2003 as it stood during 2008-09, compounded tax payable by works contractors having CST registration was eight *per cent* of the whole contract amount and otherwise rate of compounded tax was three *per cent*. For the year 2008-09, works contractors who are registered under CST Act or importers are not eligible to opt compounded tax at three *per cent* on contract works which commenced in that year but can opt only compounded tax at eight *per cent*. It was further stipulated that in respect of works which commenced prior to 1 April 2008 and remaining partly unexecuted on 1 April 2008 compounded tax payable during 2008-09 was at the rate of four *per cent* for those having CST Registration and two *per cent* for others, which was in force prior to April 2008. Under Section 7(5) of the CST Act, to cancel CST registration from a financial year, application for cancellation is to be filed not later than six months before the end of preceding year.

It was noticed (March 2011) from the annual return as well as audited accounts of GR Tech Services (P) Ltd. that during 2008-09, the dealer conceded compounded works contract turnover of ₹ 9.21 crore, out of which ₹ 3.20 crore related to new contracts taken up during the year, and which was assessed to tax at the rate of three *per cent* on the strength of application filed (April 2008) for cancelling CST registration. Though the application filed in April for cancelling CST registration was not in order, the assessing authority accepted the same. This resulted in short levy of tax, cess and interest of ₹ 19.69 lakh at the differential rate of five *per*

cent.

The case was pointed out to the Department (May 2011), the Department accepted the audit observation and stated (October 2011) that action would be taken to complete the assessment under Section 25(1). Further report was not received (December 2012).

The case was reported to Government (March 2012); their reply has not been received (December 2012).

- (CTO(WC & LT), Kollam)

It was noticed (March 2011) that two assesseees¹⁹ registered under CST Act and had inter-state purchases during the year paid tax at compounded rate of three *per cent* instead of the correct rate of eight *per cent* on a turnover of ₹ 85.57 lakh and ₹ 31.51 lakh for the year 2008-09. This resulted in short levy of tax, cess and interest of ₹ 7.24 lakh.

After the case was reported (May 2012), the Government stated (September 2012) that the assessments were revised between June and July 2011 creating additional demand which was subsequently advised for collection under RR and pending before revenue authorities. Further reply has not been received (December 2012).

- (CTO (WC & LT), Pathanamthitta)

M/s AVS projects and Constructions (P) Ltd., a works contractor having CST registration had a taxable turnover of ₹ 9.48 crore during 2008-09.

It was noticed (November 2010) from the assessment records that the assessee had contract receipts of ₹ 5.71 crore during 2008-09 pertaining to partly unexecuted work of 2007-08. This was assessed to tax at two *per cent* during 2008-09 instead of at four *per cent*. This resulted in short levy of tax, cess and interest of ₹ 13.61 lakh.

After the case was pointed out to the Department (November 2010) the Department stated (January 2011) that notice had since been issued to the assessee. Further reply has not been received (December 2012).

2.13.4.4 (CTO(WC & LT), Alappuzha)

Section 8(a) of KVAT Act provides that any works contractor executing contract works awarded by Government of Kerala, Kerala water authority or local authorities in which transfer of material is not in the form of goods but in some other form, shall be liable to pay tax at the rate of four percent on the whole contract amount received during 2008-09.

Sri K. Bhaskaran was a Government contractor and also registered under CST Act.

It was noticed (August 2010) from the annual return of the assessee, that he assessed his contract receipts of ₹ 5.52 crore at the rate of three *per cent*

instead of at the correct rate of four *per cent* during 2008-09. This resulted in short levy of tax, cess and interest of ₹ 6.42 lakh.

The matter was pointed out (August 2010) to the Department and reported to Government (June 2012). The Government stated (September 2012) that the assessment was revised (January 2011) creating additional demand of ₹ 6.81 lakh which is pending collection under RR. Recovery report has not been received (December 2012).

¹⁹ M/s Shylendra Gopal and M/s Venus Builders

2.13.5 Short levy of tax due to incorrect claim of input tax credit/ special rebate not disallowed

2.13.5.1 (CTO, Special Circle, Alappuzha, Malappuram and Kollam)

As provided in Section 11(3)/12(1) of the KVAT Act if goods in respect of which input tax is paid is used in manufacture of goods and the same are sent outside the State otherwise than by way of interstate trade, input tax credit/special rebate shall be limited to amount of tax paid/due in excess of four *per cent* on the purchase turnover of such goods sent outside the State. Further, under Rule 12A of KVAT Rules where taxable goods are used for both taxable and non-taxable transaction, the input tax credit/special rebate to which the dealer has become entitled to shall be apportioned between the taxable and exempted transactions on the basis of the ratio of taxable and exempted turnover. The portion of the input tax credit allowable to exempted sale or transaction shall be disallowed.

It was noticed in Audit between May 2010 and June 2011 in three Special circles, that the AA did not disallow IPT/special rebate to the extent it was to be actually disallowed. This resulted in short levy of ₹ 1.41 crore as shown in the following table:

(₹ in lakh)					
Sl No.	Name of the assessee Name of office	Reason for disallowance of IPT/Special rebate	Turnover questioned by Audit	Year	Tax effect involved
1	M/s Highland Produce Company Ltd. CTO, Spl Circle, Alappuzha	Taxable and non-taxable transactions	1918	2008-09	55.10
		Interstate stock transfer	963	2009-10	44.36
2	M/s Arya Vaidyasala, Kottakkal CTO, Spl. Circle, Malappuram	Irregular exemption availed on IPTC related to non-taxable commodity	5207	2009-10	20.96
3	M/s Alliance Grain Products (P) Ltd. CTO, Spl. Circle, Kollam	Taxable and non-taxable transactions	Difference between IPT disallowed and entitled	2005-06 to 2008-09	3.04
4	M/s Midland Rubber and Produce Co. CTO, Spl. Circle, Alappuzha	Interstate stock transfer	58.20	2008-09	2.94
			158	2009-10	7.22
5	M/s Rajagiri Rubber and Produce Co. CTO, Spl. Circle, Alappuzha	Interstate stock transfer	489	2009-10	8.15
Total					141.77

After this was reported, the Government accepted the observation in one case and revised the assessment. Reply in the remaining cases have not been received (December 2012).

2.13.5.2 (CTO, Spl. Circle, Alappuzha)

Under a notification²⁰ issued (July 2008), Government exempted from payment of CST the interstate sale of rubber subject to condition that the rubber so sold have suffered tax under KVAT Act 2003. Where the goods in respect of which purchase tax has been paid or where input tax credit have been availed are sent outside the State and such sale is exempted from tax, the IPT/special rebate shall be limited to the amount of such tax paid in excess of four *per cent*.

The Rajagiri Rubber & Produce Co. Ltd a dealer of arecanut, coffee, rubber etc. claimed exemption on interstate sale turnover of natural rubber for ₹ 2.78 crore during the year 2009-10. We noticed (July 2011) that the assessee availed input tax credit/ special rebate of ₹ 12.86 lakh on local purchases including the tax exempted interstate trade. At the time of accepting

the returns the AA did not limit input tax credit/special rebate availed to tax paid in excess of four *per cent* on purchase turnover corresponding to exempted interstate sales turnover resulted in short levy of tax, cess and interest of ₹ 11.63 lakh.

This was pointed out to the Department (July 2011) and reported to Government (February 2012); their reply has not been received (December 2012).

- (CTO, Ponkunnam)

M/s Kollamkulam Agencies Pvt. Ltd was a dealer of rubber latex, rubber products, chemicals etc. Their sales and purchase turnover during 2009-10 was ₹ 7.59 crore and ₹ 6.84 crore respectively.

It was noticed (August 2011) from the annual accounts and annual return for 2009-10 that they availed exemption from payment of CST on interstate sales turnover of rubber of ₹ 0.85 crore which was 11.21 *per cent* of the sales turnover. Though they availed input tax credit/special rebate on the entire purchase value of rubber of ₹ 6.84 crore, the assessing authority did not reverse proportionate input tax credit/special rebate corresponding to the interstate sales for which exemption was availed. This resulted in short levy of tax, interest and cess of ₹ 3.64 lakh.

After the case was pointed out (August 2011) to the Department and reported to Government (February 2012); the Government stated (October 2012) that assessment was completed under Section 25(1) of KVAT Act 2013 (March 2012)

²⁰ SRO No. 804/2008

creating an additional demand of ₹ 4.73 lakh. Further remarks have not been received (December 2012).

2.13.5.3 (CTO, Special Circle, Palakkad)

Section 12 of KVAT Act provides that purchase tax paid under Section 6(2) of the Act can be deducted as special rebate while calculating the net tax payable.

It was noticed (January 2011) from the annual return of M/s MPS Steel Castings (P) Ltd. for the year 2008-09 that the dealer deducted from tax

payable an amount of ₹ 8.22 lakh as special rebate. Though as per the return that the assessee had not paid any tax on purchase, the assessing authority did not disallow the incorrect claim resulting in short levy of tax of ₹ 9.86 lakh including interest.

After the matter was pointed out to the Department (January 2011) and reported to the Government (February 2012), Government stated (September 2012) that the credit claimed by the dealer related to the entry tax paid by them and not on purchase under Section 6(2). The reply is not correct as the assessee had not made any interstate purchase during the year which attracts payment of entry tax. Further the claim of payment of advance tax has not been supported by any documentary evidence.

2.13.5.4 (CTO, First Circle, Kottayam)

Under proviso (2) below Section 11(3) of the KVAT Act, 2003 where any goods purchased in the State are subsequently sold at subsidised price, the input tax allowable under sub section (3) in respect of such goods shall not exceed the output tax payable on such goods.

Supply Co., District Depot, Kottayam is a public sector company that deals in pulses, spices, consumer goods, vegetables etc. The goods purchased are classified as maveli and

non-maveli items. Maveli items viz., pulses and spices are sold at subsidised prices and non-maveli goods sold at normal prices.

It was noticed (May 2010) from the assessment records of the assessee that they availed ITC of ₹ 19.31 lakh on sale of Maveli goods (pulses and spices) from April 2008 to November 2008. Since the maveli goods were sold at a lower price; the output tax on subsidised value of these goods amounted to ₹ 14.53 lakh only. In such cases to avoid tax loss; the assessing authority should limit the input tax credit upto the output tax payable on the sale of the goods. However, the assessing authority did not do so. This resulted in short levy of tax and interest of ₹ 5.35 lakh.

After this was pointed out to Government (May 2011), the Government replied (May 2012) that the assessment for 2008-09 was revised based on the audit remarks creating a demand of ₹ 7.17 lakh. Further remarks have not been received (December 2012).

2.13.5.5 (CTO, II Circle, Mattancherry)

Under Section 6(2) of KVAT Act 2003, every dealer who purchases taxable goods from any person other than a registered dealer shall pay tax on the purchase turnover of goods at the rates specified under sub Section (1) of the Act. As per Proviso below Section 12(1) of the Act, if goods purchased in the State as above are sent outside the State or used in manufacture of goods and the same are sent outside the State otherwise than by way of sale in the course of interstate trade or export, special rebate shall be limited to tax paid in excess of four *per cent* of purchase turnover of such goods.

M/s Innovative Foods Ltd. was a dealer in meat, fish and chicken during 2009-10. The assessee returned a sales turnover and stock transfer of chicken for ₹ 0.90 crore and ₹ 4.81 crore respectively.

It was noticed (December 2011) that the above turnover was against the total returned purchase turnover of chicken of ₹ 28.66 lakh. Though,

purchase from unregistered dealers was clear from the return, the assessing authority did not assess the tax relating to undisclosed purchase corresponding to interstate stock transfer, resulting in short levy of tax, cess and interest of ₹ 23.12 lakh.

This was pointed out to the Department (December 2011) and reported to Government (March 2012). Government accepted (August 2012) and revised the assessment raising a demand of ₹ 42 lakh, collection particulars of which have not been received (December 2012).

- (CTO, Special circle, Alappuzha)

M/s Accelerated freeze drying company Ltd., a dealer in fruits, vegetables, meat, pepper etc., purchased pepper locally for an amount of ₹ 1.48 crore from unregistered dealers during 2008-09. But they did not remit the purchase tax in respect of the turnover which resulted in availing special rebate of entire purchase tax due. Since they had interstate stock transfer of pepper for an amount of ₹ 1.60 crore, special rebate upto four *per cent* on purchase turnover of pepper corresponding to turnover of pepper stock transferred should have been disallowed. Inadmissible special rebate works out to ₹ 3.19 lakh.

This was pointed out to the Department (May 2010) and reported to Government (June 2012); their reply has not been received (December 2012).

2.13.6 Short levy of compounded tax

2.13.6.1 (CTO(WC & LT), Kollam)

Under Section 8(a)(ii) of the KVAT Act 2003, as it stood prior to April 2008, works contractors who are importers or having CST registration could opt to pay compounded tax of four *per cent*. But works contractors engaged in contracts relating to supply and installation of plant and machinery, were not eligible to pay tax at compounded rates.

M/s Raghavendra Automation (P) Ltd. was a dealer engaged in design, manufacture, supply, installation and commissioning of Auto LPG dispensing station as turnkey projects.

For installation of plant and machinery, deduction of 15 *per cent* is admissible towards

labour and other charges. After giving allowable deduction, balance turnover is taxable at 12.5 *per cent*. However, we noticed (January 2010) from the assessment records that the assessing authority applied the incorrect rate of four *per cent* on ₹ 2.32 crore and ₹ 2.22 crore being the contract receipts for the years 2006-07 and 2007-08 respectively. This is not correct as contractors undertaking supply and installation of plant and machinery are not eligible to opt for payment of compounded tax under the Act. This resulted in short levy of tax and interest of ₹ 37.91 lakh.

After this was pointed out (February 2010) to the Department and reported to Government (June 2012); Government stated (December 2012) that the AA assessed the escaped turnover and additional demand was created for the works contract receipts other than that was proved to be related to interstate.

2.13.6.2 (CTO, Kothamangalam)

As per Section 8(b) of KVAT Act, 2003 any dealer producing granite metals with the aid of mechanised crushing machine can opt to pay compounded tax at rates specified on the basis of size of the crushing machine. Rate of compounded tax for crusher unit of jaw size (size II) and cone crusher was ₹ 1.50 lakh and ₹ 10 lakh per annum respectively.

M/s Ever-one Properties India Pvt. Ltd. is an assessee producing granite metals using crushing machines. we noticed (December 2011) from the assessment records of the assessee that the assessee owns two crushers – one cone crusher and one size II

crusher. For the year 2009-10, they paid tax and cess of ₹ 1.52 lakh only, for one crushing unit of size II. Failure to demand tax on the cone crusher resulted in short levy of tax, cess and interest of ₹ 12.02 lakh.

After the matter was pointed out to the Department (December 2011) and reported to Government (March 2012); Government stated (October 2012) that assessment was completed (June 2012) under Section 25(1) of KVAT Act and recovery steps initiated. However, a report on recovery has not been received (December 2012).

2.13.6.3 (CTO, Special Circle, Kollam)

Under Section 8(c) (ii) of KVAT Act as it stood prior to 1 April 2008, bar attached hotel other than that of and above three star, club and heritage hotel can opt to pay tax on cooked food and beverages prepared by it, at compounded rate. The rate shall be higher of following:

(a) 12.5 *per cent* tax on 15 *per cent* of the turnover of foreign liquor estimated under Section 7 of the KGST or (b) 115 *per cent* of the tax paid or payable in respect of the higher turnover for the previous consecutive three years, preceding the year to which the option relates. From 1 April 2008, dealers who paid compounded tax during previous year shall pay tax at 115 *per cent* of compounded tax paid.

Hotel Revathy, a bar attached hotel which opted for payment of compounded tax on cooked food prepared by it, paid compounded tax of ₹ 2.21 lakh for 2007-08. But tax liability due under KVAT Act for that year was ₹ 5.03 lakh²¹. Since the tax liability of such cases was dependant on the liability of 2007-08, corresponding shortage occurred in compounded tax fixed for 2008-09 and 2009-10. This resulted in short levy of tax and interest of ₹ 11.27 lakh as shown below:

(₹ in lakh)

Year	Compounded tax due	Tax paid	Balance tax	Cess	Interest	Short levy
2007-08	5.03	2.21	2.82		0.93	3.75
2008-09	5.79	2.76	3.02	0.03	0.64	3.69
2009-10	6.65	3.18	3.48	0.03	0.32	3.83
Total						11.27

The matter was pointed out to the Department (February 2011) and reported the matter to Government (February 2012), the Government stated (October 2012) that the assessment was revised (August 2012) and additional demand of ₹ 14.31 lakh was made. However, a report on recovery has not been received (December 2012).

²¹ The assessee had not paid compounded tax during 2006-07 and paid tax under Section 8(c) of KVAT Act during 2007-08.

Purchase tax of liquor (2006-07) : ₹ 1,91,66,755

Sale turnover u/s 7 of KGST Act : ₹ 2,68,33,457

Turnover of cooked food for fixing compounded tax for 2007-08 : ₹ 40,25,019 (15% of ₹ 2.68 crore).

Compounded tax fixed : ₹ 5,03,127 (12.5% of ₹40,25,019)

2.13.6.4 (CTO, Perambra)

Under Section 8(f) of the KVAT Act, as it stood between 1 July 2006 and 31 March 2008, dealer in ornaments and wares or articles of gold, silver or platinum group metals may opt to pay compounded tax at 200 *per cent* of the highest tax payable by him under KVAT Act or KGST Act for a period of 12 months during any of the three preceding years. As per explanation 1 to that Section, if the dealer had not transacted business for any period during any such preceding years, the tax payable for the twelve months shall be calculated proportionately on the basis of tax payable for the period during which such dealer had transacted business. Further, where the dealer had paid compounded tax for the previous year, the tax payable for the succeeding year shall be one hundred and fifteen *per cent* of such tax paid during the previous year.

M/s Diya Gold palace Jewellers (Perambra) a dealer in jewellery opted for paying the tax at compounded rate under Section 8(f) of KVAT Act, 2003. The compounded tax for 2006-07 was fixed at ₹ 1.50 lakh considering tax of ₹ 0.75 lakh paid during 2004-05 as the highest.

It was noticed (February 2011) that the assessment was incorrect. Since the assessee started business from November 2003, the proportionate tax for 12 months period for 2003-04 amounted to

₹ 1.77 lakh²². Hence the compounded tax for 2006-07 should have been ₹ 3.53 lakh. Incorrect fixation of compounded tax affected the subsequent years leading to a total short levy of tax amounting to ₹ 9.30 lakh for three financial years 2006-09 as shown below:

(₹ in lakh)			
Financial year	Tax paid	Tax due	Short levy of tax Interest upto 01/2011
2006-07	1.50	3.53	2.03 0.91
2007-08	1.72	4.07	2.35 0.78
2008-09	2.00	4.67	2.67 0.56
Total			9.30

The matter was reported to Department (February 2011) and to Government (February 2012). Government stated (September 2012) that the assessments were

²² Tax payable for 2003-04 = Tax due from 13 November 2003 to March 2004 = ₹ 67,586 X 366/140 = ₹ 1,76,684
 Compounded tax for 2006-07 = ₹ 1,76,684 X 200% = ₹ 3,53,368 (Highest tax being that for 2003-04)
 Compounded tax for 2007-08 and 2008-09 = 115% of tax due for previous years.

revised and additional demand of ₹ 10.25 lakh was created since the point raised in audit was sustainable. Further report has not been received (December 2012).

2.13.6.5 (CTO(WC & LT), Kottayam)

Under KVAT Act, 2003 as existed prior to April 2008, works contract relating to supply and installation of plant and machinery were not eligible for compounding and attracted tax at the rate of 12.5 *per cent* as per Section 6(1) (f) of KVAT Act 2003. Further, for the year 2008-09 for works commenced prior to 1 April 2008, work contractors are required to pay tax at the rate as it existed prior to 1 April 2008.

M/s Barnett Associates, an assessee engaged in sales and supply of installation of pump set and allied electrical contracts with Kerala Water Authority had a contract receipt (2008-09) of ₹ 48.22 lakh related to ongoing works of 2007-08. Though it was assessable at 12.5 *per cent* it was assessed to tax at

four *per cent*. Application of incorrect rate of tax resulted in short levy of tax, cess and interest of ₹ 4.80 lakh.

After the matter was pointed out (September 2010), in audit, the Department stated (July 2011) that action had been initiated to realise the tax.

The matter was reported to Government (June 2012); their reply has not been received (December 2012).

2.13.7 Incorrect filing of returns

- (CTO, Special Circle II, Ernakulam)

Section 42(2) of KVAT Act 2003, provides that where any dealer detects any omission or mistake in the annual return submitted by him with reference to the audited figures, he shall file along with audited certificate, revised annual return rectifying the mistake or omission and if the tax liability increases, he shall also file proof of payment of such tax, interest due thereon and penal interest.

M/s India Techs Ltd. a dealer in Bulldozers, earth movers, escalators etc. had a sales turnover of ₹ 99.31 crore for the financial year 2008-09. We noticed (December 2011) from their assessment records that the assessee availed tax credit of ₹ 6.50 lakh towards sales return which is not supported by figures as per certified accounts. However output tax

is assessed only at net sales and hence, availing tax credit again on sales return is incorrect. This resulted in short levy of tax, cess and interest of ₹ 8.52 lakh.

The matter was pointed out to the Department (December 2011) and reported to the Government (June 2012); their reply has not been received (December 2012).

- (CTO, Special Circle III, Ernakulam)

During 2009-10 the FACT²³ Limited purchased furnace oil for ₹ 162.27 crore on which input tax credit admissible at 12.5 *per cent* was ₹ 20.28 crore. Against this the assessee incorrectly disclosed a purchase turnover of ₹ 162.75 crore in annual return on which ₹ 20.34 crore was availed as input tax credit. This resulted in short levy of tax, cess and interest of ₹ 7.35 lakh.

The case was pointed out to the Department (December 2011) and reported to the Government in March 2012; their reply has not been received (December 2012).

2.13.8 Non-levy of surcharge

(CTO, Special circle II, Ernakulam)

Under Section 3(1A) of the Kerala surcharge on Taxes Act 1957, the tax payable under sub sections (1) and (2) of Section 6 of the Kerala Value Added Tax Act 2003, other than declared goods as defined in Section 14 of the CST Act shall in the case of national or multinational companies functioning in the State as retail chains or direct marketing chains who import not less than 50 *per cent* of their stock from outside the State or country and not less than 75 *per cent* of whose sales are retail business and whose total turnover exceeds five crore rupees per annum but excluding such class of dealers of certain commodities, be increased by a surcharge of 10 *per cent*. Under notification issued in August 2008 Government exempted certain dealers who exclusively deals with certain commodities which includes readymade garments.

M/s Fab India Overseas (P) Ltd., the assessee is a shopping mall with a net work of more than 50 shops all over the country. The items dealt with by the assessee are readymade garments, flooring materials, furniture, gift articles, cosmetics etc. The assessee effected entire purchases from outside the State and by way of interstate stock transfers. Being a retail chain dealer the entire sales was effected to customers (retail sales) within the State.

It was noticed (November 2011) in Audit from the assessment records that though the assessee was

liable to pay surcharge, the assessing authority did not assess surcharge at the rate of 10 *per cent* on ₹ 50.68 lakh and ₹ 67.58 lakh being the tax payable under VAT for the years 2008-09 and 2009-10 respectively. This resulted in non levy of surcharge and interest of ₹ 14.56 lakh.

After this was pointed out in November 2011 the assessing authority replied (November 2011) that the dealer mainly dealt with readymade garments which was exempted from surcharge vide notification²⁴ issued (August 2008) by

²³ Fertilizers and Chemicals Travancore Limited

²⁴ SRO 817/08 dated 04.08.2008

Government. Further it was stated that exclusively means primarily and hence the assessee is entitled for exemption under the notification. The reply is not correct as the said notification extends exemption to those dealers who exclusively deal with certain commodities which includes readymade garments. But in this case the dealer sold goods valued at ₹ 13.72 crore out of which ₹ 10.84 crore related to readymade garments. The remaining sale related to goods like electrical goods, cosmetics, flooring materials, jewellery etc. from which it clear that the assessee was not an exclusive dealer of readymade garments and hence liable to pay surcharge.

2.13.9 Short levy of tax due to acceptance of bogus declarations

(CTO, Second Circle, Perumbavoor)

Under Section 8(2) (b) of the CST Act, the tax payable on interstate sales by a dealer, in the case of goods other than declared goods, shall be calculated at the rate of 10 *per cent* or the rate applicable to the sale or purchase of such goods inside the State, whichever is higher.

M/s Amala Plywood was a manufacturer cum dealer in plywood and block board. The assessing authority assessed central sales tax at reduced rate of four *per cent* on taxable turnover of ₹ 69.30 lakh and ₹ 99.61 lakh respectively for the years 2003-04 and 2004-05

accepting the declarations in form 'C' received from Tamil Nadu dealers. We noticed (November 2009) that the declarations covering an aggregate turnover of ₹ 70.21 lakh²⁵ were apparently not genuine as the name of the issuing office in the stamp affixed in the form C was not of an existing office in Tamil Nadu. Acceptance of bogus declaration Forms resulted in short levy of tax and interest of ₹ 11.07 lakh.

After the matter was pointed out (July 2010) to the Department and reported to Government (July 2012), the Government accepted (November 2012) the audit observation and stated that assessments were completed rejecting bogus 'C' form declarations and assessing turnover at higher rate of 12.5 *per cent*. Further they stated that Department initiated RR action against the dealer. Further remarks have not been received (December 2012).

²⁵ ₹ 32.67 lakh (2003-04) and ₹ 37.54 lakh (2004-05).

2.13.10 Non-forfeiture of tax collected illegally

(CTO, Thirurangadi)

Under Section 72(1) where any person collects any sum by way of tax or purporting to be by way of tax in contravention of provisions of KVAT Act, he shall in addition to forfeiture of such illegal collection, be liable to pay penalty not exceeding ₹ 5,000.

M/s Ecowood was a dealer in timber. They conceded sales turnover of timber of ₹ 12.44 crore on which VAT including cess leviable was ₹ 15.70 lakh during 2008-09. Against this the firm collected ₹ 23.53

lakh.

It was noticed (December 2010) from the annual returns and profit and loss accounts that the assessing authority, did not forfeit to Government tax collection of ₹ 7.83 lakh effected by the assessee. Further, the assessing authority refunded excess input tax credit of ₹ 7.98 lakh claimed by the assessee without adjusting excess collection of tax. Non-forfeiture of tax, interest and penalty amounts to ₹ 9.37 lakh.

After this was pointed out (December 2010) to the Department and reported to Government, Government stated (November 2012) that the observation was a result of error on the part of the auditor and by mistake, they have entered output tax receivable in the balance sheet instead of VAT refundable. The reply is not correct as the AA completed assessment (March 2011) after examining the returns and the balance sheet, besides the balance sheets were certified by the chartered accountants, as such the matter needs detailed investigation.

2.13.11 Short levy of tax due to suppression of turnover

(AIT & CTO, Kuthiathode)

Section 25 of the KVAT Act empowers the Assessing Authority to assess tax payable on any turnover which has escaped assessment to tax within five years from last date of the year to which return relates.

We noticed (May 2011) from the annual return for 2009-10 filed by M/s Thohoor Tyres and Oils that it availed input tax credit of ₹ 1.98 lakh relating to purchase of

furnace oil for ₹ 15.86 lakh. It was also not depicted in the closing stock, the assessee neither resold nor used it for manufacture of taxable goods. The AA however, did not disallow the claim resulting in short levy of tax, cess and interest of ₹ 2.47 lakh.

This was pointed out to the Department (May 2011) and reported to Government (February 2012); their reply has not been received (December 2012).

2.13.12 Short levy of tax due to incorrect computation of turnover

(CTO (WC&LT), Kollam)

Under Rule 10(2) (a) of KVAT Rules, 2005, labour and other specified charges for execution of work and profit to the extent it is related to supply of labour can be deducted from total turnover for arriving taxable turnover. If after the deduction towards labour and other charges the taxable turnover falls below the cost of goods transferred in the execution of works contract, an amount equal to the cost of goods transferred in the execution of works contract together with profit, if any, shall be taxable turnover in respect of such works contract.

Lumens electrosystems, an assessee, was undertaking electrical contracts assessable under works contract in KVAT. We noticed from the assessment records for the years 2006-07 and 2007-08 that the assessee had worked out taxable turnover as ₹ 37.08 lakh and ₹ 47.70 lakh respectively. As a result turnover of ₹ 6.33 lakh

and ₹ 11.40 lakh²⁶ escaped from assessment as per provision of KVAT Act. This resulted in short levy of tax and interest of ₹ 2.76 lakh as shown below:

(₹ in lakh)

Financial year	Taxable turnover disclosed by the assessee	Taxable amount under KVAT Act	Turnover escaped assessment	Short levy of tax including interest
2006-07	37.08	43.41	6.33	1.05
2007-08	47.70	59.10	11.40	1.71
Total				2.76

After this pointed out this to the Department (January 2010) and reported to Government (July 2012); Government stated that the assessment was completed (October 2010) for the respective years creating additional demand of ₹ 1.37 lakh and ₹ 1.81 lakh and the arrears is under RR action. Further remarks have not been received (December 2012).

²⁶ Difference between the cost of material transferred in works contract and the taxable turnover disclosed by the assessee after availing the deductions.

2.13.13 Short levy of Turnover tax

(AIT & CTO, Alathur)

Under Section 5(2) (C) of the KGST Act, bar attached hotels are liable to pay turnover tax at 10 *per cent* of turnover of foreign liquor sold by them. However, under Section 7 of KGST Act as amended vide Finance Act 2006 bar hotels not being a star hotel of and above three star hotel situated in *panchayat* areas may, at its option pay turnover tax (a) at one hundred and thirty five *per cent* of purchase value of liquor, or (b) at one hundred and fifteen per cent of highest turnover tax payable by it as conceded in the return or accounts or the turnover tax paid for any of the previous consecutive three years whichever is higher, from July 2006.

M/s Savitha bar, a bar attached hotel situated in panchayat area was liable to pay turnover tax. The assessing authority applied (March 2011) the lower rate and underassessed the tax liability for the financial year 2006-07 resulting in a short levy of ₹ 2.63 lakh due to incorrect calculation as shown below:

(₹ in lakh)

Turnover tax paid for 2005-06	19.53
Turnover tax actually payable for 2006-07 (115 % of the tax paid for 2005-06)	22.45
Turnover tax assessed and paid for 2006-07 (10% on 135% of purchase turnover for current year)	19.82
Short levy of turnover tax for 2006-07	2.63

This was pointed out (July 2011) to the Department and reported (February 2012) to Government, Government stated (September 2012) that the dealer opted out of the compounding scheme. The reply is not correct, as the assessing authority has completed assessment under compounding scheme (March 2011) after considering the reply furnished by the assessee for the notice issued in February 2011.

Sales Tax

2.13.14 Turnover escaped assessment

2.13.14.1 (CTO Special circle, Thiruvananthapuram)

Under Rule 18(4) and (5) of KGST Rules 1963, scrutiny of the accounts is mandatory before finalising assessment. Under section 17(3) of KGST Act, if the return submitted by the dealer appears to be incorrect or incomplete, the assessing authority shall assess the dealer to the best of its judgement.

M/s Kerala Automobiles Limited was a dealer in three wheelers and spares. We noticed (February 2011) from the assessment order that against a total turnover of ₹ 48.34 crore, the assessing authority finalised (June 2009) their

assessment for 2004-05 accepting the total and taxable turnover of ₹ 47.43 crore and ₹ 38.49 crore respectively as conceded in return. The reason for accepting the reduced amount was not explained. This resulted in escape of turnover of ₹ 91.08 lakh and consequent short levy of tax of ₹ 21.24 lakh including AST and interest.

This was pointed out to the Department (February 2011) and reported to Government (March 2012); their reply has not been received (December 2012).

2.13.14.2 (CTO, Special circle, Kottayam)

Under Section 5(1) of KGST Act, dealers whose total turnover exceeds Rupees two lakh are liable to pay tax on the taxable turnover of the year. It was judicially held²⁷ that excise duty forms part of the turnover of the seller.

M/s Midas Precured Treads (P) Ltd. is a manufacturer of tread rubber. We noticed (October 2008) that while finalising (June 2007) the KGST assessments for 2003-04 and 2004-05 of the assessee, the assessing

authority did not include excise duty in the turnover. This resulted in short levy of tax, AST and interest to the tune of ₹ 12.74 lakh as follows.

(₹ in lakh)			
Year	Sales turnover	Excise duty excluded	Tax loss
2003-04	582.32	41.53	4.70
2004-05	826.28	35.32	3.82
Total			8.52
Interest			4.22
Total short levy			12.74

²⁷ MC Dowell Co. Ltd Vs Commercial Tax Officer (1985)59 STC 277 (SC)

After this being pointed out (October 2008) the Department stated in April 2009 that they submitted the case to Commissioner of Commercial Taxes to obtain permission to reopen it under Section 17(D) of the Act. Further report has not been received (December 2012).

2.13.15 Short levy due to incorrect exemption allowed

2.13.15.1 (CTO, Special Circle II, Ernakulam)

By a notification²⁸ issued in December 1999 under KGST Act, 1963, Government exempted from payment of tax the turnover of sale of raw material, plant and machinery, spares, tools and consumables other than petroleum products to 100 *per cent* Export Oriented Units. High speed diesel (HSD) was taxable at the rate of 24 *per cent* under KGST Act read with another notification²⁹ issued by Government in December 1999.

M/s Bharat Petroleum Corporation Ltd. is a dealer in petroleum products like Petrol, HSD, Diesel etc. The assessing authority finalised (March 2010) the assessment of the assessee for 2003-04 fixing the total and taxable turnover as ₹ 4,779.30 crore and ₹ 1,431.76 crore respectively.

It was noticed (November 2010) in Audit from the assessment records for the year 2003-04 that the assessing authority did not levy tax on a turnover of ₹ 1.07 crore relating to sales of HSD to 100 *per cent* Export Oriented Units. This resulted in short levy of tax of ₹ 48.49 lakh, including interest.

The matter was pointed out (November 2010) in audit and the Department accepted the audit observation and stated (May 2011) that action would be taken to make good the short levy.

The matter was reported to Government (June 2012); their reply has not been received (December 2012).

2.13.15.2 (CTO, Special Circle, Kottayam)

Under entry 150(i) of I schedule to KGST Act, 1963 tea including green tea leaves are taxable at the rate of eight *per cent*. By a notification³⁰ issued in December 1999 Government exempted from tax, the turnover of green tea leaves produced by cultivators and sold to tea factories, subject to the condition that the processed tea is taxed either under KGST Act 1963 or CST Act 1956.

It was noticed (October 2008) in Audit from the annual returns of Kerala Forest Development Corporation Ltd. that while completing the assessments for the years 2003-04 and 2004-05, the assessing officer exempted sales turnover of green tea leaves

²⁸ SRO 1090/99 (Schedule III, item 7)

²⁹ SRO 1091/99 (Schedule I, Sl. no. 28(i))

³⁰ SRO 1090/99

for ₹ 35.21 lakh and ₹ 58.35 lakh respectively, accepting the declaration of a purchaser tea factory situated outside the State. Incorrect exemption allowed resulted in short levy of tax, AST and interest of ₹ 12.78 lakh.

After this was pointed out in audit (October 2008), the assessing officer stated (April 2009) that the CCT was requested to accord sanction for re-opening the case. We have not received further report from them (December 2012).

The matter was reported to the Government in May 2009; their reply has not been received (December 2012).

EXECUTIVE SUMMARY – CHAPTER - III

Unrealistic BEs	Significant variations were noticed persistently between budget estimates and actual receipts.
Results of audit	<p>In 2011-12, 32 units relating to agricultural income tax were test checked and found underassessment of tax and other irregularities involving ₹ 24.98 crore in 13 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 6.21 lakh in seven cases.</p>
Very low recovery by the Department	During the period 2007-08 to 2010-11, inadmissible expenses, income escaping assessment, incorrect computation of income etc. with revenue impact of ₹ 54.99 crore were pointed out in 208 paragraphs. Of these, the Department accepted audit observation in 50 cases involving ₹ 1.52 crore but recovered only ₹ 0.23 crore in 26 cases.
What is highlighted in this Chapter	<p>In this Chapter illustrative cases of selected observations noticed during test check of records relating to Agricultural Income Tax Office are brought out. It was found that the provisions of the Act/Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out repeatedly in the Audit Reports for the past several years, but the irregularities persist, and remain undetected.</p>
Conclusion	<p>It is recommended that internal audit may be operationalised immediately. Further, the Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.</p> <p>It also needs to initiate immediate action to recover the inadmissible expenses, income escaping assessment, incorrect computation of income etc. pointed out by us, more so in those cases where it has accepted our contention.</p>

CHAPTER - III : TAXES ON AGRICULTURAL INCOME

3.1 Tax administration

The levy and collection of taxes on agricultural income is governed by The Kerala Agricultural Income Tax (KAIT) Act 1991 and is administered by Commissioner of Commercial Tax (CCT). The assessment, levy and collection are looked after by Inspecting Assistant Commissioners, Agricultural Income Tax and Commercial Tax Officers. The Department of Commercial Taxes is under the control of the Secretary to Government (Taxes) at the Government level.

Companies and persons, who derive agricultural income within the State are liable to KAIT. In respect of Companies tax at the rates prescribed in the Schedule to the Act shall be charged. From April 2000, persons holding landed property upto 500 hectares may opt to pay tax at compounded rate. No tax is payable on first five hectares.

3.2 Trend of receipts

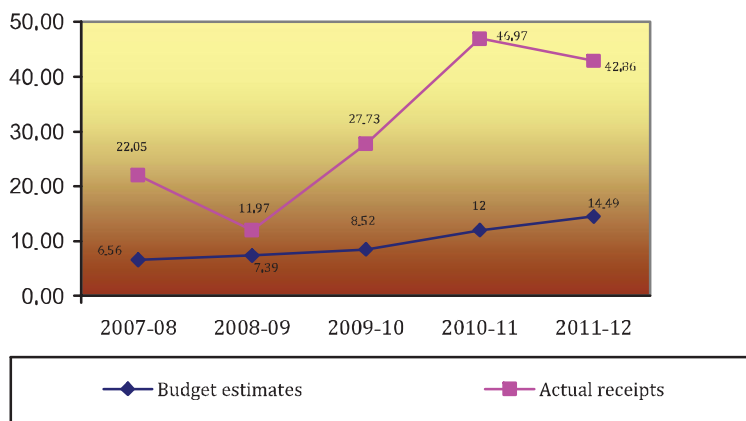
Actual receipts (AR) from agricultural income tax during the last five years (2007-08 to 2011-12) along with the budget estimates (BEs) during the same period are exhibited in the following table and graph.

(₹ in crore)

Year	Budget Estimates	Actual Receipts	Variation	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts	Percentage of growth rate
2007-08	6.56	22.05	(+) 15.49	(+) 236.13	13,668.95	0.16	128.97
2008-09	7.39	11.97	(+) 4.58	(+) 61.98	15,990.18	0.07	(-) 45.71
2009-10	8.52	27.73	(+) 19.21	(+) 225.47	17,625.02	0.16	131.67
2010-11	12.00	46.97	(+) 34.97	(+) 291.41	21,721.69	0.22	69.38
2011-12	14.49	42.86	(+) 28.37	(+) 195.79	25,718.60	0.16	(-) 8.75

Source : Finance Account of relevant year

Budget estimates and Actual receipts



It was noticed in Audit that during 2011-12 the Department could not maintain the growth rate achieved during the previous year. Department may streamline its budgeting process to make the budget estimates realistic as significant variations were noticed persistently between budget estimates and actual receipts.

3.3 Arrears in AIT assessment

The Department furnished the position of arrears under agricultural income tax which is as shown below :

Opening balance	7,050
Addition during 2011-12 including remanded cases	2,757
Total	9,807
No. of assessments completed	5,067
Arrear cases – 4,005	
Current cases – 1,059	
Remanded cases – 3	
Closing balance	4,740

The table above shows that the Department completed 5,067 assessments which was 51.67 *per cent* of the arrears outstanding.

3.4 Impact of Audit

Revenue Impact

During the last four years, cases of inadmissible expenses, income escaping assessment, incorrect computation of income, underassessment due to assignment of incorrect status etc., with revenue implication of ₹ 54.99 crore in 208 paragraphs were pointed out. Of these, the Department/Government accepted audit observations involving ₹ 1.52 crore and had since recovered ₹ 0.23 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2007-08	43	3.69	17	0.35	10	-
2008-09 Vol. I	67	28.66	9	0.12	4	0.11
2009-10	39	5.57	19	0.95	11	0.12
2010-11	59	17.07	5	0.10	1	-
Total	208	54.99	50	1.52	26	0.23

The recovery of cases vis-à-vis the amount accepted was negligible.

3.5 Working of Internal Audit Wing

As the Department did not furnish detailed information on internal audit, Audit was unable to comment on the performance of the Internal Audit Wing (IAW).

3.6 Results of audit

In 2011-12 Audit test checked records of 32 units relating to agricultural income tax. Under assessment of tax and other irregularities involving ₹ 24.98 crore in 13 cases were noticed in audit which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Income escaping assessment	4	23.11
2.	Incorrect computation of tax	3	0.03
3.	Inadmissible expenses	2	0.54
4.	Others	4	1.30
Total		13	24.98

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 6.21 lakh in 7 cases out of which one case involving ₹ 7,158 was pointed out in audit during the year 2011-12. The Department realised an amount of ₹ 6.21 lakh in seven cases during the year 2011-12.

A few illustrative audit observations involving ₹ 5.45 crore are mentioned in the succeeding paragraphs.

3.7 Audit observations

Scrutiny of the assessment records of agricultural income tax in Commercial Taxes Department revealed several cases of non-observance of provisions of Act/Rules, incorrect determination of income/interest, grant of inadmissible expenses/allowances 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 the Assessing Authorities (AAs) are pointed out in audit each year but not only do the irregularities persist, but these also remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of the internal audit.

3.8 Non-observance of provisions of Act/Rules

Under the KAIT Act and Rules made thereunder, for completing assessments the following aspects should be observed:

- i) tax shall be levied at the prescribed rate on the agricultural income derived by the assessee;*
- ii) deductions shall be allowed on income derived subject to certain conditions; and*
- iii) interest shall be levied on the balance tax payable.*

It was noticed that while finalising the assessment, the AAs did not observe some provisions which resulted in short levy of tax and interest of ₹ 5.45 crore as mentioned in the paragraphs 3.8.1 to 3.8.3.

3.8.1 Incorrect determination of taxable income

(IAC(AIT), Kottayam; March 2012)

The Kerala Agricultural Income Tax Act, 1991 stipulates that where an allowance or deduction is made in the assessment for any year in respect of loss or expenditure and if the assessee obtained any amount in lieu of such loss, the amount so obtained shall be deemed to be agricultural income.

It was noticed (December 2010) from the assessment records of KFDC Ltd.¹ for the assessment year 2008-09 that as per balance sheet an amount of ₹ 3.64 crore received as

subsidy by the assessee as a compensation for selling timber at reduced price was neither shown as income in the assessment return filed by the assessee nor was it assessed by the AIT officer though it was an agricultural income. The omission resulted in non-levy of tax of ₹ 1.82 crore.

After this being pointed to the Department and the Government in March 2012, the Government stated (September 2012) that the subsidy received by the

¹ Kerala Forest Development Corporation Limited.

corporation from the Government was an allowance intended for the compensation of loss happened by fall in price of timber and hence not agricultural income. The reply is not acceptable as the subsidy received was towards fall in price and as such was part of total agricultural income since there was no fall in price of timber and the amount received had to be reckoned as part of sale price.

3.8.2 Incorrect allowance of expenses

- (IAC(AIT), Kottayam; March 2012)

Section 5 of the KAIT Act enumerates the deductions allowable from the agricultural income. Cost of failed plantation and prior period expenditure are not included in the list of the items on which deduction is allowable under the Act.

It was noticed that while finalising the assessment (December 2010) of a public sector company (KFDC Ltd.) for the assessment year 2008-09 the assessing officer

allowed an amount of ₹ 3.04 crore being the cost of failed plantations. This resulted in escape of income of ₹ 3.04 crore with tax effect of ₹ 1.52 crore.

After the matter was pointed out to the Department and to the Government in June 2012, the Government stated (September 2012) that the corporation was raising plantations solely for felling and sale of wood and income out of this sale was subjected to tax and hence cost of raising it ought to have been allowed for deduction. Further, failure of plantation is a universal phenomenon and certain percentage of the seedlings would perish before attaining maturity.

It is clear from the reply that the plants had perished when plants were in the immature stage and in view of the provision in the Act that expenditure incurred for the cultivation, upkeep or maintenance of immature plants from which no agricultural income is derived during the previous year shall not be allowed.

- (IAC(AIT), Kottayam; January 2012)

It was noticed that while finalising the assessment (October 2010) of a public limited company (KFDC Ltd) for the year 2008-09 the assessing officer allowed prior period expenditure of ₹ 33.59 lakh being expenditure incurred by the assessee towards various expenditure during earlier years. This resulted in escape of income of ₹ 33.59 lakh with consequent tax effect of ₹ 16.80 lakh.

After the matter was pointed out to the Department in January 2012 and reported to Government in March 2012, the Government stated (September 2012) that certain income and expenditure which relate to previous years are accounted by the corporation under the head 'Prior period income' and 'Prior period expenditure' in their books of accounts but they were actually derived and incurred in the current year itself. The reply is not tenable since the Act does not allow the adjustment of expenditure incurred in previous year against income in subsequent year.

3.8.3 Incorrect exemption of income led to income escaping assessment

3.8.3.1 (IAC(AIT&CT), Mattancherry)

Section 2(1)(a) of KAIT Act 1991 stipulates that any rent or revenue derived from land which is used for agricultural purposes is agricultural income. The agricultural income derived from cultivation of pine apple is exempt from levy of agricultural income tax; however, lease rent is not exempted from agricultural income tax.

It was noticed that while finalising the provisional assessment of a domestic company (Harrison Malayalam Ltd.) for the years 2006-07 and 2007-08 the assessing authority exempted the income of ₹ 1.45 crore and ₹ 1.42 crore received respectively by the company on account of lease

rent/licence fee for inter crop cultivation of pineapple in the rubber division and tea division instead of levying tax on the income received by the assessee. The omission to assess the aggregate income of ₹ 2.87 crore resulted in non-levy of tax of ₹ 1.44 crore.

After the matter was pointed out to the Department in October 2010 and to the Government in December 2010, the Government stated (October 2011) that the agricultural income derived from cultivation of pineapple was not taxable and hence the lease rent/licence fee could not be assessed to agricultural income tax. The reply is not tenable as only agricultural income derived by pineapple cultivation is exempt, the rent received from land used for agricultural purposes is taxable irrespective of the fact that source is taxable or not and that the cause of income by the tax payer, i.e. the assessee, is lease.

3.8.3.2 (IAC(AIT), Kottayam)

The KAIT Act, 1991 stipulates that agricultural income means any income derived from land by sale by the cultivator or received by him in respect of which no process has been performed. The forest development tariff is the amount collected by the assessee at five *per cent* of the value of invoice raised during the year for timber and timber growth retained by him. As this is an additional source of revenue for the assessee, the same will form part of his agricultural income. From April 2005 onwards agricultural income tax leviable in the case of domestic company having total agricultural income exceeding rupees three lakh is 50 *per cent* of the total agricultural income.

It was noticed that while finalising the assessment of a public limited company (KFDC Ltd.) (October 2010) in IAC Kottayam, the assessing officer did not include forest development tariff of ₹ 66.58 lakh collected by the assessee in his income. This resulted in escape of income of ₹ 66.58 lakh with resultant short levy of tax of ₹ 33.29 lakh.

After the case was pointed out to the Department (January 2012) and reported to the Government (March 2012), Government stated (August 2012) that as per a tribunal decision², forest development tariff is a separate levy and cannot be treated as part of sale value and does not form part of income. The reply is not correct since tax and development tariff are different. The tax paid is an allowable deduction whereas the forest development tariff is collected by the assessee from the purchasers of forest produce which is retained by them and hence form part of agricultural income under the KAIT Act. Tribunal decision cited is about forest development tax and not development tariff. Further report has not been received (December 2012).

3.8.3.3 (IAC(AIT), Kottayam)

The KAIT Act, 1991 allows deduction of expenditure not being in the nature of capital expenditure or personal expenses of the assessee expended wholly and exclusively for the purpose of deriving agricultural income.

It was noticed that while finalising the assessment of a public limited company (KFDC Ltd.) for the year 2008-09, the assessing officer allowed deduction of an amount of ₹ 34.35 lakh on

account of property written off and shown as expenditure in the Profit & Loss account. Since no agricultural income was derived from the property written off no deduction was admissible. The incorrect deduction resulted in escape of income of ₹ 34.35 lakh with short levy of tax of ₹ 17.17 lakh.

The matter was pointed out to the Department in January 2012; reply has not been received (December 2012).

The matter was reported to the Government in March 2012; their reply has not been received (December 2012).

² 12 KTR 62

EXECUTIVE SUMMARY – CHAPTER -IV

Very low recovery by the Department	During the last four years, Audit pointed out undervaluation of documents, short remission of stamp duty etc. with revenue implication of ₹ 64.89 crore in 973 paragraphs. Of these, the Department/Government accepted audit observations involving ₹ 6.40 crore but recovered only ₹ 0.13 crore.
Results of audit	<p>In 2011-12 the records of 160 units relating to the Registration Department were test checked and irregularities involving ₹ 3.31 crore were detected in 160 cases.</p> <p>The Department accepted undervaluation and other deficiencies of ₹ 2.35 crore in 90 cases, of which 13 cases involving ₹ 0.10 crore were pointed out in audit during the year 2011-12 and the rest in earlier years. An amount of ₹ 0.07 crore was realised in 76 cases during the year of which four cases involving ₹ 0.01 crore pertained to 2011-12.</p>
What is highlighted in this Chapter	<p>A few illustrative cases involving ₹ 94.16 lakh selected from observations noticed during our test check of records relating to levy and collection of stamp duty and registration fees have been included in this Chapter.</p> <p>It was noticed that the Department did not have an effective system either to dispose of large number of undervaluation cases or monitor the cases reported as undervalued.</p>
Conclusion	The Department needs to initiate immediate action to recover stamp duty and registration fees relating to undervaluation of documents, pointed out by us, more so in cases where it has accepted our contention.

CHAPTER - IV : STAMP DUTY AND REGISTRATION FEES

4.1 Tax administration

The Registration Department is under the control of the Secretary to the Government, Taxes at the Government level and the Inspector General of Registration is the head of the Department. Instruments affecting immovable property are to be presented for registration in the office of Sub-Registrar within whose jurisdiction the whole or some portion of the property is situated. The Registration Department administers the Acts and Rules relating to Stamp Duty and Registration Fees.

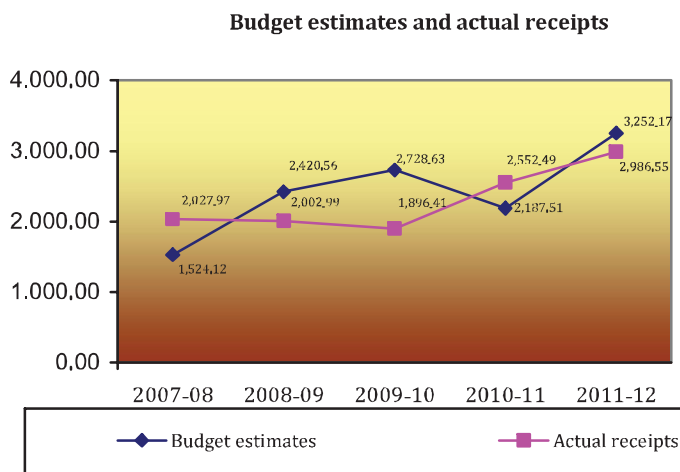
Non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent of the value of one hundred rupees and upwards, to or in immovable property and other instruments mentioned under Section 17 of the Registration Act 1908 are to be registered compulsorily and the registration of documents mentioned under Section 18 is optional.

4.2 Trend of receipts

Actual receipts from stamp duty and registration fees during the last five years (2007-08 to 2011-12) along with the budget estimates during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual Receipts	Variation	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts	Percentage of growth rate over actual receipts
2007-08	1,524.12	2,027.97	(+) 503.85	(+) 33.06	13,668.95	14.84	33.42
2008-09	2,420.56	2,002.99	(-) 417.57	(-) 17.25	15,990.18	12.53	(-) 1.23
2009-10	2,728.63	1,896.41	(-) 832.22	(-) 30.50	17,625.02	10.76	(-) 5.32
2010-11	2,187.51	2,552.49	(+) 364.98	(+) 16.68	21,721.69	11.75	34.59
2011-12	3,252.17	2,986.55	(-) 265.62	(-) 8.17	25,718.60	11.61	17.01



It is appreciable to note that there is an increasing trend in the revenue collection during past two years.

4.3 Cost of collection

The gross collection of revenue receipts under the head Stamps and Registration fees, expenditure incurred on collection and the percentage of expenditure to gross collection during 2007-08 to 2011-12 alongwith the All India average percentage of expenditure on collection to gross collection for relevant years are mentioned below :

Year	Collection*	Expenditure on collection of revenue*	Percentage of expenditure to gross collection	All India average percentage over the previous year
	₹ in crore)			
2007-08	1,946.08	77.64	3.99	2.33
2008-09	1,931.75	82.97	4.30	2.09
2009-10	1,812.89	100.70	5.55	2.77
2010-11	2,477.19	101.56	4.09	2.47
2011-12	2,906.89	144.85	4.98	1.60

* (Source: Finance Accounts and Departmental figures)

It was noticed that the expenditure on collection was throughout higher than the All India Average. However, the revenue collection registered an increase of 17.35 *per cent* in 2011-12 over the previous year, whereas the expenditure on collection of revenue was much higher with 42.63 *per cent* for the said period.

4.4 Impact of audit

During the last four years, undervaluation of documents, short levy of stamp duty etc. with revenue implication of ₹ 64.89 crore were pointed out in 973 paragraphs. Of these, the Department/Government accepted audit observations involving ₹ 6.40 crore and recovered ₹ 0.13 crore. The details are shown in the following table:

(₹ in crore)

Year	Paragraphs included in the LAR		Paragraphs accepted during the year		Amount recovered during the year	
	No.	Amount	No.	Amount	No.	Amount
2007-08	245	1.59	118	0.25	6	0.02
2008-09	235	7.02	54	0.38	52	0.03
2009-10	258	9.04	176	3.02	54	0.03
2010-11	235	47.24	87	2.75	74	0.05
Total	973	64.89	435	6.40	186	0.13

It is seen from the table that the Department has recovered only 2.03 per cent of the total amount accepted during the four years.

4.5 Working of Internal Audit Wing

Inspector General of Registration (IGR), Kerala monitors the functioning of the Internal Audit Wing (IAW) of the Registration Department. The District Registrar (DR) (Audit) and team conduct audit in the district. The SROs are audited annually. The total number of staff deputed for the internal audit work in this Department is sixty two. The team leader is the DR (Audit) who is assisted by his subordinates. There is neither an Internal Audit Manual nor a centralised training system for the audit wing. During 2011-12, IAW audited 256 units out of 312 units planned for audit.

It is recommended that the IAW may be strengthened by imparting training to the persons deployed for audit and by preparing an Internal Audit Manual.

4.6 Results of audit

In 2011-12 the records of 160 units relating to the Registration Department were test checked and underassessment of tax and other irregularities involving ₹ 3.31 crore were detected in 160 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	Undervaluation of documents	145	3.09
2	Other lapses	15	0.22
	Total	160	3.31

The Department accepted undervaluation and other deficiencies of ₹ 2.35 crore in 90 cases, of which 13 cases involving ₹ 0.10 crore were pointed out in audit

during the year 2011-12 and the rest in earlier years. An amount of ₹ 0.07 crore was realised in 76 cases during the year of which four cases involving ₹ 0.01 crore pertained to 2011-12.

A few illustrative cases involving money value of ₹ 94.16 lakh are discussed in the succeeding paragraphs.

4.7 Other audit observations

The records of various registration offices were scrutinised and several cases of non-compliance of the provisions of the Indian Stamp Act, 1899 and the Kerala Stamp Act, 1959 (KS Act) and other cases as mentioned in the succeeding paragraphs in this chapter were noticed. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Sub-Registrars (SRs) are pointed out each year. Not only do the irregularities persist, but also remain undetected till another audit is conducted. There is need for the Government to improve the internal control system including strengthening of the internal audit.

4.8 Non-compliance of provisions of Act/Rules

The provisions of the KS Act and Registration Rules require:-

- i) initiating action in cases where documents were undervalued and*
- ii) correct classification of documents.*

We noticed that the SRs did not observe some of the above provisions at the time of registration of the documents. This resulted in short levy/evasion of stamp duty of ₹ 94.16 lakh as mentioned in the succeeding paragraphs.

4.8.1 Splitting up of land to evade stamp duty and registration fee

- (SRO, Ambalappuzha)

Section 45 B of Kerala Stamp Act, 1959 stipulates that if the registering authority has reason to believe that the value of the property or the consideration has not been truly set forth in the instrument transferring any property brought before him for registration, he may after registering the document, refer the same to the Collector for determination of the value or consideration and the proper duty payable thereon. In terms of SRO No. 1514/86 read with Act 16 of 1991, District Registrars are empowered to act as Collectors for this purpose.

It was noticed (November 2011) from the "Register of Non-Testamentary Documents"¹ relating to immovable property that 272.1 ares² of land was transferred by the same executant to the same person through two sale deeds registered on the same day by which 40.47 ares and 231.63 ares were sold for ₹ one crore each. Land was split up before the transactions in such a way that major portion of land was without road facility and it was registered at a lower value. The

case was not reported as a suspected case of undervaluation to the Registrar for initiating action under Section 45 B(2) of the Act. This resulted in undervaluation of the second document to the tune of

¹ Containing details of all documents relating to immovable property other than 'Will' like conveyance, partition, release, mortgage etc.

² One Are = 100 sq.metres.

₹ 4.72 crore and consequent short levy of stamp duty and registration fee of ₹ 56.68 lakh.

The matter was pointed out to the Department (November 2011) and reported to Government (February 2012); their reply has not been received (December 2012).

- (SRO, Nileswaram)

It was noticed (December 2010) that 21.04 ares of land was transferred by the same executant to the same two persons through two sale deeds executed within four days (6 August 2009 and 10 August 2009) by which 1.11 ares and 19.93 ares were sold for ₹ 4.68 lakh and ₹ 3.50 lakh respectively. Land was split up before the transactions in such a way that major portion of land was without road facility and it was registered at a lower value. This resulted in undervaluation of the second document to the tune of ₹ 80.44 lakh and consequent short levy of stamp duty and registration fee of ₹ 9.65 lakh.

The matter was pointed out to the Department (December 2010) and the Department stated (December 2011) that *suo motu* action was being taken on the document.

The case was reported to Government (February 2012); their remarks have not been received (December 2012).

4.8.2 Short levy of stamp duty and registration fee due to undervaluation

- (SRO, Agali)

Section 45 B of Kerala Stamp Act, 1959 stipulates that if the registering authority has reason to believe that the value of the property or the consideration has not been truly set forth in the instrument transferring any property brought before him for registration, he may after registering the document, refer the same to the Collector for determination of the value or consideration and the proper duty payable thereon. The Collector may, *suo motu*, within two years from the date of registration of any instrument not already referred to him, call for and examine the instrument for the purpose of satisfying himself as to the correctness of its value and the duty payable thereon and may determine the value and duty. For this purpose power of Collector has been delegated to the District Registrar.

It was noticed (May 2008) that 34 sale deeds were registered, whereby 122.365 acres³ of land was sold to a company, the previous documents of which were registered within a period of one to six months prior to the registration of the present documents. The values shown in the previous documents were considerably lower than the subsequent documents resulting in undervaluation of previous documents to the extent of ₹ 1.26 crore.

³ 1 acre = 40.47 ares 122.365 acres = 4951.94 ares.

This resulted in short levy of stamp duty and registration fees of ₹ 15.15 lakh.

The Government formed a committee (May 2010) which was entrusted the work of enquiring into these audit observations also. The committee confirmed (October 2010) that there had been undervaluation in sale deeds presented for registration at SRO Agali. However, further report on action taken has not been received (December 2012).

- (SRO, Vadakkencherry)

Verification (November 2011) of Book 1 and register of undervaluation revealed that while registering the conveyance deeds, conveyance transfer of two properties of 243.03 ares and 113.72 ares in Kizhakkencherry *Panchayat* in April and May 2008 for ₹ 7 lakh and ₹ 4.90 lakh respectively, the registering authority estimated the value of these properties as ₹ 48.29 lakh and ₹ 36 lakh respectively and referred the deeds to District Registrar as suspected cases of undervaluation. The values estimated by the registering authority with available details were recorded in the register of undervaluation maintained in the sub registry office. Subsequently, notices were issued to the parties for settling the cases under compounding scheme and the first case was settled under compounding scheme while the second case remained unsettled. Meanwhile, these properties were sold again in October and November 2009 for consideration of ₹ 11.60 lakh and ₹ 8 lakh respectively. Though the details of undervaluation of the property and the value estimated and reported to District Registrar were available in the undervaluation register of the said office, the registering authority did not report the subsequent transactions to the District Registrar as undervaluation cases. This resulted in short levy of stamp duty and registration fee of ₹ 7.76 lakh.

We pointed out the matter to the Department (November 2011) and reported to the Government (February 2012). We have not received any further remarks (December 2012).

- (SRO, Wadakkancherry)

It was noticed (December 2011) that a property of 155.01 ares of land sold for ₹ 7.66 lakh in July 2009 was resold after 18 days without any improvement for a consideration of ₹ 29 lakh. However, the registering authority did not report the first sale to the District Registrar as undervaluation. This resulted in short levy of stamp duty and registration fee of ₹ 2.56 lakh.

The matter was pointed out to the Department (December 2011) and reported to the Government (February 2012); their remarks have not been received (December 2012).

- (SRO, Kozhencherry)

From verification (October 2011) of Book 1 and register of undervaluation it was noticed that the registering authority referred to the District Registrar four conveyance deeds registered between January and September 2008 as suspected cases of undervaluation estimating their values at ₹ 12.74 lakh, ₹ 10.80 lakh,

₹ 5.06 lakh and ₹ 2.50 lakh respectively. The values estimated by the registering authority with available details were recorded in the register of undervaluation maintained in the sub registry office. The cases are pending disposal by the District Registrar. Meanwhile, these properties were sold between October 2009 and January 2010 for ₹ 2.60 lakh, ₹ 5 lakh, ₹ 3 lakh and ₹ 0.80 lakh respectively. Though the details of undervaluation of the properties and the values estimated and reported to the District Registrar were available in the undervaluation register of the said office, the registering authority did not refer the register and report the subsequent transactions to the District Registrar as undervaluation cases. This resulted in short levy of stamp duty and registration fee of ₹ 2.36 lakh.

The matter was pointed out to the Department (November 2011) and reported to the Government (February 2012); their remarks have not been received (December 2012).

EXECUTIVE SUMMARY – CHAPTER - V

Tax collection and budget estimates	The Department collected ₹ 1,587.13 crore during the year which registered a 19.21 <i>per cent</i> increase over the previous year.
Very low recovery by the Department	During the last four years, short/non-levy of tax, incorrect classification, irregular exemption etc. with revenue implication of ₹ 384.51 crore were pointed out in 1,419 paragraphs. Of these, the Department/ Government accepted audit observations involving ₹ 15.58 crore and recovered ₹ 2.63 crore.
Results of audit	<p>In 2011-12 the records of 65 units relating to Motor Vehicles Department were test checked and irregularities involving ₹ 14.29 crore were detected in 409 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 6.53 crore in 267 cases, of which 110 cases involving ₹ 4.52 crore were pointed out in audit during the year 2011-12 and the rest in earlier years.</p>
What is highlighted in this Chapter	<p>A few illustrative cases involving ₹ 1.78 crore selected from observations noticed during the test check of records relating to levy and collection of motor vehicle tax in RTOs/SRTOs where Audit found that the provisions of the Act/Rules were not complied with.</p> <p>It is a matter of concern that similar omissions have been pointed out repeatedly in the Audit Reports for the past several years, but the irregularities persist, and remain undetected till it is pointed out in next audit.</p>
Conclusion	The Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions of the nature detected by Audit are avoided in future.

CHAPTER-V: TAXES ON VEHICLES

5.1 Tax administration

The Transport Department is under the control of Principal Secretary (Transport) at Government level and the Transport Commissioner is the head of the Department. The levy and collection of tax in the State are governed by the Motor Vehicles (MV) Act, 1988, Central Motor Vehicles (CMV) Rules, 1989 and the Kerala Motor Vehicles Taxation (KMVT) Act, 1976. The activities of the Department include registration of motor vehicles, levy and collection of motor vehicle tax, grant of driving licence and road permits.

5.2 Trend of receipts

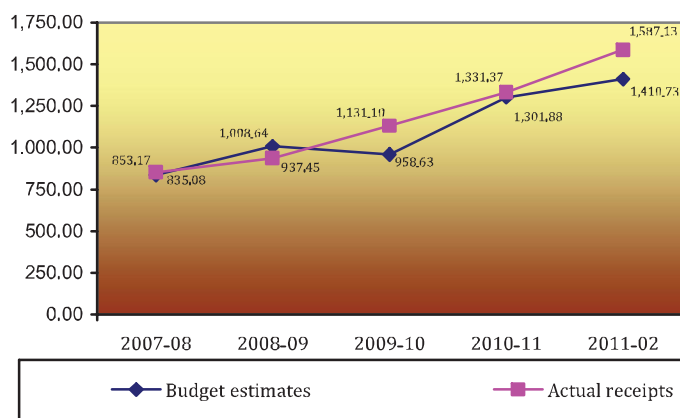
Actual receipts from taxes on motor vehicles during the years 2007-08 to 2011-12 along with the budget estimates during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual Receipts	Variation	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts	Percentage of growth rate
2007-08	835.08	853.17	(+) 18.09	(+) 2.17	13,668.95	6.24	20.54
2008-09	1,008.64	937.45	(-) 71.19	(-) 7.06	15,990.18	5.86	9.88
2009-10	958.63	1,131.10	(+) 172.47	(+) 18.00	17,625.02	6.42	20.65
2010-11	1,301.88	1,331.37	(+) 29.49	(+) 2.26	21,721.69	6.13	17.70
2011-12	1,410.73	1,587.13	(+) 176.40	(+) 12.50	25,718.60	6.17	19.21

Source: Finance Accounts for the relevant years

Budget estimates and actual receipts



Except for 2008-09, the actual receipts exceeded the Budget Estimate during 2007-08 to 2011-12.

5.3 Cost of collection

The gross collection of revenue receipts under the head Taxes on vehicles, expenditure incurred on collection and the percentage of expenditure to gross collection during 2007-08 to 2011-12 alongwith the All India average percentage of expenditure on collection to gross collection for relevant preceding years are mentioned below:

Year	Collection*	Expenditure on collection of revenue*	Percentage of expenditure to gross collection	All India average percentage of the preceding year
	(₹ in crore)			
2007-08	853.17	26.00	3.05	2.47
2008-09	937.45	30.05	3.21	2.58
2009-10	1,131.10	33.96	3.00	2.93
2010-11	1,331.37	35.55	2.67	3.07
2011-12	1,587.13	53.26	3.36	3.71

*Source: Finance Accounts for the relevant years

From the table above it is seen that revenue collection showed an increasing trend consistently from 2007-08 onwards. Percentage of cost of collection was lower than All India average percentage during the years 2010-11 and 2011-12.

5.4 Impact of audit

Revenue impact

During the last four years, non/short levy of tax, incorrect classification, irregular exemption etc. with revenue implication of ₹ 384.51 crore were pointed out in 1,419 paragraphs. Of these, the Department/Government accepted 767 audit observations involving ₹ 15.58 crore and had since recovered ₹ 2.63 crore. The details are shown in the following table:

Year	Paragraphs included in the LAR		Paragraphs accepted during the year		Amount recovered during the year	
	No.	Amount	No.	Amount	No.	Amount
2007-08	148	206.00	162	271.43	25	13.07
2008-09	404	398.00	138	604.64	131	77.66
2009-10	453	37,149.00	369	454.78	432	113.00
2010-11	414	698.00	98	227.20	125	59.04
Total	1,419	38,451.00	767	1,558.05	713	262.77

Though the Department accepted 767 cases involving ₹ 15.58 crore against 1,419 cases featured in the IRs it could recover only ₹ 2.63 crore which was 16.88 *per cent* of the accepted amount.

5.5 Working of Internal Audit Wing

Finance Officer attached to the office of the Transport Commissioner conducts annual audit of offices of the Deputy Transport Commissioners and RTOs. The Senior Superintendents attached to the office of the Deputy TC conduct internal audit of Sub RTOs. One Accounts Officer, one Senior Superintendent and three Clerks comprise the Internal Audit team in the office of the Transport Commissioner while a Senior Superintendent looks after the internal audit function at each of the four Deputy TC's offices. No special training has been imparted to the personnel of the Internal Audit Wing (IAW). The periodicity of audit of all offices is 'annual' but the Department could not achieve the target due to shortage of staff. Against the target of 66 units, 39 units were audited during 2011-12. The Department has not prepared a separate Internal Audit Manual. 1,299 paragraphs involving ₹ 99.38 lakh relating to 259 IRs remained outstanding at the end of March 2012.

It is recommended that the IAW may be strengthened so that the planned audit target is achieved. Besides, a mechanism needs to be installed for timely settlement of the audit observations raised by the IAW.

5.6 Results of audit

In 2011-12 the records of 65 units relating to Motor Vehicles Department were test checked. Non/short levy of tax and other irregularities involving ₹ 14.29 crore were detected in 409 cases which fall under the following categories :

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Short/non-levy of tax	164	2.50
2	Incorrect classification	3	0.03
3	Irregular exemption	11	0.18
4	Other lapses	231	11.58
Total		409	14.29

The Department accepted underassessment and other deficiencies of ₹ 6.53 crore in 267 cases, of which 110 cases involving ₹ 4.52 crore were pointed out in audit during the year 2011-12 and the rest in earlier years. An amount of ₹ 0.91 crore was realised in 118 cases during the year 2011-12.

A few illustrative observations involving ₹ 1.78 crore are mentioned in the following paragraphs.

5.7 Other audit observations

The records of various Transport Offices were scrutinised which revealed several cases of non-compliance of the provisions of the Motor Vehicles Act, 1988 (MV Act) and the Kerala Motor Vehicles Taxation Act (KMVT Act), 1976 and Government notifications as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check. Such omissions on the part of the Regional Transport Officers (RTOs) are pointed out by audit each year but not only do the irregularities persist but also these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that occurrence of such cases can be minimised.*

5.8 Non-compliance of provisions of Acts/Rules

The provisions of the MV Act and KMVT Act and Rules made thereunder provide for:

- i) collection of revenue on transport vehicles/stage carriages;*
- ii) levy of tax at the prescribed rates within the due dates and*
- iii) levy of penalty for various offences.*

It was noticed that the RTOs did not observe some of the above provisions which resulted in non/short levy of tax/fine of ₹ 1.78 crore as mentioned in paragraphs 5.8.1 to 5.8.5.

* Regional Transport Offices, Joint Regional Transport Offices and Sub Regional Transport Offices

5.8.1 Non/short levy of one time tax on value on percentage basis

(11¹ RTOs and 29² SRTOs)

Section 3(1) of the Kerala Motor Vehicles Taxation Act, 1976 as amended by the Finance Act 2007 and Finance Act 2010 stipulates that one time tax is leviable on the purchase value of certain categories of vehicles at percentage basis depending on the age of vehicle from the month of original registration. The one time tax is leviable in the case of vehicles such as motor cycles, three wheelers, PSVs (non-transport), construction equipment vehicles and motor cars which are originally registered in other States on or after 1 April 2007 and migrated to Kerala State and vehicles registered on or after 1 April 2007 and reclassified from the category of transport vehicles. The revised rate of one time tax leviable in respect of vehicles having engine capacity above 1,500 cc is eight *per cent* of the purchase value of the vehicle and six *per cent* of purchase value in respect of vehicles having engine capacity below 1,500 cc.

The registration table and tax table in the database were analysed (October to December 2011) and noticed that the Department at the time of reclassification and assigning new registration of vehicles did not levy one time tax in respect of 432 vehicles though these vehicles were liable to tax. This resulted in short levy of tax of ₹ 77.71 lakh.

After the matter was pointed out between October 2010 and December 2011, the Registering Authorities stated that action would be taken to realise the

short collections. Further, developments from the Department have not been received (December 2012).

¹ RTOs: Ernakulam, Idukki, Kannur, Kasargode, Kollam, Kottayam, Muvattupuzha, Palakkad, Pathanamthitta, Thrissur and Wayanad.

² SRTOs: Alathur, Aluva, Changanassery, Cherthala, Irinjalakuda, Guruvayoor, Kanhangad, Kanjirappally, Karunagappally, Kodungallur, Kottarakkara, Mallappally, Mannarkkad, Mattancherry, North Paravur, Nedumangad, Ottapalam, Pala, Pattambi, Perumbavoor, Punalur, Thalassery, Thaliparamba, Thiruvalla, Thirupunithura, Tirur, Vandiperiyar, Vaikom and Wadakkancherry.

- (10 RTOs³ and 27 SRTOs⁴; between October 2010 and November 2011).

The database was analysed and it was noticed that the registering authorities realised one time tax at less than the prescribed rate in 37 RTOs/SRTOs. The total short levy worked out to ₹ 46.73 lakh in 1,152 cases.

After the cases were pointed out between October 2010 and November 2011, the Registering authority stated that action would be taken to realise the short collection. The matter was reported to the Government (March 2012). They stated (July 2012) that ₹ 3.10 lakh was collected in 67 cases and that the remittance particulars in the remaining cases would be intimated. Further report has not been received (December 2012).

5.8.2 Non-imposition of fine

(9 RTOs⁵ and 19 SRTOs⁶)

Under Section 113 of the MV Act 1988, no person shall drive any motor vehicle or trailer, the laden weight of which exceeds the gross weight specified in the certificate of registration. Under Section 194 of the Act, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the above provisions shall be punishable with minimum fine of ₹ 2,000 and an additional amount of ₹ 1,000 per tonne of excess load together with liability to pay charges for off loading the excess load.

It was noticed (October 2010 to November 2011) from the check report table of the database and the pending check reports⁷ relating to the period upto 2010-11 that 28 RTOs/SRTOs did not collect fine in respect of 503 over loaded vehicles. This resulted in non-imposition of ₹ 24.86 lakh.

After the cases were pointed out between October 2010 and November 2011, the Registering authority stated that action would be taken to

realise the non-collection. Further developments from the Department have not been received (December 2012).

³ RTOs: Alappuzha, Attingal, Kollam, Kottayam, Muvattupuzha, Palakkad, Pathanamthitta, Thrissur, Thiruvananthapuram and Wayanad.

⁴ SRTOs : Alathur, Aluva, Chengannur, Cherthala, Guruvayoor, Irinjalakuda, Kanjirappally, Karunagapally, Kayamkulam, Kazhakuttam, Kottarakara, Mallappally, Mannarkkad, Mavelikkara, Nedumangad, Neyyattinkara, Ottapalam, Pala, Parassala, Pattambi, Perumbavoor, Punalur, Thalassery, Thaliparamba, Thiruvalla, Thodupuzha and Vaikom.

⁵ RTOs: Ernakulam, Idukki, Kannur, Kasargode, Malappuram, Muvattupuzha, Palakkad, Pathanamthitta and Thrissur

⁶ SRTOs : Adoor, Alathur, Changanassery, Guruvayoor, Irinjalakuda, Kodungallur, Mallappally, Mannarkkad, Ottapalam, Pattambi, Perinthalmanna, Perumbavoor, Ponnani, Thalassery, Thaliparamba, Thodupuzha, Vaikom, Vandiperiyar and Wadakkanchery.

⁷ Check reports, not defined in Motor Vehicles Act/Rule, are prepared by enforcement officer of Motor Vehicles Department at the time of detecting the offence, recording the nature of offence and the details of fine imposed.

5.8.3 Short collection of permit fee for educational institution buses

(2 RTOs⁸ and 7 SRTOs⁹)

The Motor Vehicles Act, 1988 as amended by Motor Vehicles (Amendment) Act, 2000 prescribes contract carriage permit for educational institution buses (EIBs). Government of India, Ministry of Road Transport and Highways in their letter¹⁰ reiterated and clarified that EIBs are contract carriages. Accordingly, the State Government in August 2008 directed the Transport Commissioner to issue contract carriage permit for all newly registered educational institution buses and for all the existing EIBs on the expiry of Private Service Vehicle permits issued to them. However, the Transport Commissioner complied with the direction only in June 2009. The fee prescribed for contract carriage permits are ₹ 2,000, ₹ 2,500 and ₹ 3,000 for vehicles having seats below 13, 13 to 20 and above 20, respectively.

The database was analysed (October 2010 and November 2011) and noticed that 9 RTOs/ SRTOs issued/renewed private service vehicle permits to 586 EIBs @ ₹ 500 from August 2008 instead of issuing contract carriage permits. Issue (August 2008 to March 2010) of Private Service Vehicle permits instead of contract carriage permits resulted in short collection of permit fee of ₹ 13.77 lakh in 586 cases.

After the cases were pointed out between December 2010 and March

2011, the registering authorities stated that action would be taken to make good the short levy. Further developments from the Department have not been received (December 2012).

⁸ RTOs : Idukki and Malappuram.

⁹ SRTO: Alathur, Perinthalmanna, Ponnanni, Thalassery, Thaliparamba, Tirur and Vandiperiyar.

¹⁰ Letter No. RT-11012/32/008 MVT dt: 28 August 2006

5.8.4 Incorrect exemption of one time tax

(RTO Thiruvananthapuram and Kollam)

Section 3(1) of the Kerala Motor Vehicles Taxation Act, 1976 stipulates levy of tax on every motor vehicle used or kept for use in the State at the rate specified for such vehicle in the Schedule. The second proviso to the above Section as amended by the Kerala Finance Act 2010 envisages levy of one time tax in respect of motor cycle, three wheelers, private service vehicle for personal use, construction equipment vehicles and motor cars at the rates prescribed. Government by notification exempted certain classes of motor vehicles from the payment of tax which includes motor vehicles owned by or on behalf of Government of Kerala, Road Rollers, Fire Engines, Ambulances etc.

The database was analysed (July and October 2011) and noticed that the Department granted exemption from payment of tax to 43 vehicles belonging to Central Government/autonomous bodies treating these vehicles at par with vehicles owned by the State Government. The incorrect exemption from levy of tax resulted in non-realisation of one time tax of ₹ 9.26 lakh.

The matter was pointed out to the registering authorities concerned in July and October 2011. While the RTO, Kollam stated that action has been taken to make good the short levy, RTO, Thiruvananthapuram stated (July 2011) that exemption was granted as per order of the High Court. The reply of RTO, Thiruvananthapuram is not acceptable as the order mentioned was only an interim order staying the levy of tax. Further, the interim stay order was decided (May 2011) by which the writ appeals were dismissed in favour of revenue. Further developments from the Department have not been received (December 2012).

5.8.5 Short levy of tax on stage carriages with mofussil permits

(2 RTOs¹¹ and SRTO¹²)

Rule 269 of the Kerala Motor Vehicles Rules, 1989 stipulates that the minimum seating capacity of a stage carriage shall be directly proportionate to the wheel base of the vehicle. The seating capacity determines the tax due on stage carriage. The seating capacity can be reduced by two seats in respect of vehicles with separate entrance and exit and further reduced by one fifth in respect of vehicles operating as City/Town service. However, such vehicles with reduced seating capacity are eligible for mofussil permit only on enhancement of seating capacity to the minimum prescribed in the Rule.

The database relating to stage carriages was analysed (Between January and October 2011) and noticed that RTOs/SRTOs transferred vehicles to other jurisdictions by granting mofussil permits to 14 vehicles. They collected tax based on reduced seating capacity of the vehicles instead of collecting tax on the minimum seating capacity. This resulted in short collection of tax of

₹ 5.88 lakh.

After the cases were pointed out between January and October 2011, the registering authorities stated that the matter would be examined and action taken to make good the short levy. Further developments from the Department have not been received (December 2012).

¹¹ RTOs : Kottayam and Palakkad

¹² SRTO : Thalassery

EXECUTIVE SUMMARY – CHAPTER - VI

Stagnant tax collection and wide variation from budget estimates	The revenue collection during 2011-12 was 62.69 <i>per cent</i> less than the budget estimate.
Internal audit	The Internal Audit Wing (IAW) audits about 23 out of 120 units every year and at this rate it may not be able to cover all the units completely even in five years.
Very low recovery by the Department	During the period 2007-08 to 2010-11 underassessment of building tax, short levy of lease rent etc. with revenue implication of ₹ 365.48 crore were pointed out in 346 cases. Of these, the Department/Government accepted audit observations in 245 cases involving ₹ 16.56 crore but only ₹ 2.81 crore was recovered in 161 cases.
Results of audit	<p>In 2011-12 the records of 61 units relating to land revenue and building tax were test checked and detected under assessment of tax and other irregularities involving ₹ 91.34 crore in 117 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 18.41 crore in 225 cases of which 17 cases involving 0.55 crore were pointed out in audit during the year 2011-12. The Department realised an amount of ₹ 4.49 crore in 225 cases of which 17 cases involving ₹ 0.14 crore were pointed out in audit during the year 2011-12.</p>
What is highlighted in this Chapter	<p>The Chapter includes illustrative cases of ₹ 1.48 crore selected from observations noticed during test check of records relating to assessment and collection of building tax and land revenue in <i>taluk</i> offices where Audit found that the provisions of the Acts /Rules were not complied with.</p> <p>It is a matter of concern that similar non compliances were pointed out by us repeatedly in the Audit Reports for the past several years, but the irregularities still persist and remain undetected till an audit is conducted.</p>
Conclusion	It is recommended that the IAW be strengthened on a priority basis so that all the units are covered over a 2-3 year cycle. Further, an action plan may be drawn up to settle the high number of outstanding internal audit observations and to recover underassessments pointed out.

CHAPTER - VI : LAND REVENUE AND BUILDING TAX

6.1 Tax administration

The Revenue Department is under the control of the Additional Chief Secretary at the Government level and the Land Revenue Commissioner is the head of the Department. The revenue collection of the Department includes collection of basic tax, plantation tax, lease rent and building tax. The Department realises arrears of public revenue under the Kerala Revenue Recovery Act with interest and cost of process prescribed.

6.2 Trend of receipts

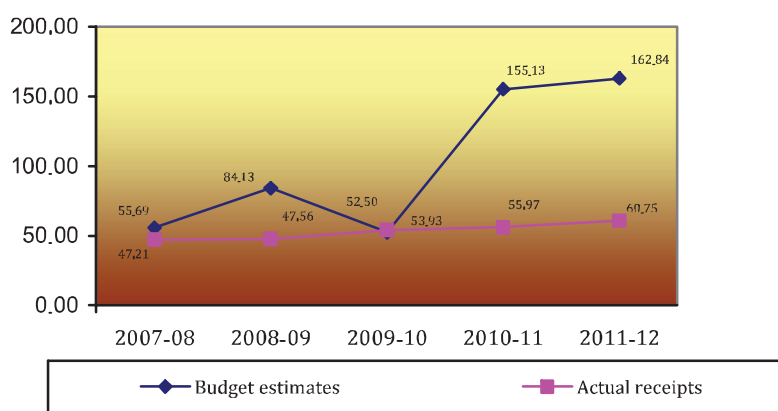
Actual receipts from land revenue during the last five years (2007-08 to 2011-12) along with the budget estimates during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual Receipts	Variation	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts	Percentage of growth
2007-08	55.69	47.21	(-) 8.48	(-) 15.23	13,668.95	0.35	0.45
2008-09	84.13	47.56	(-) 36.57	(-) 43.47	15,990.18	0.30	0.74
2009-10	52.50	53.93	(+) 1.43	(+) 2.72	17,625.02	0.31	13.39
2010-11	155.13	55.97	(-) 99.16	(-) 63.92	21,721.69	0.26	3.78
2011-12	162.84	60.75	(-) 102.09	(-) 62.69	25,718.60	0.24	8.54

Source : Finance Account of relevant year

Budget estimates and actual receipts - MH 0029



The actual receipts were less than the budget estimates during the last five years except 2009-10.

6.3 Arrears in assessment

Building tax assessment

The Department furnished the position of arrears under building tax assessment which is as shown below :

Opening balance	8,298
Addition during 2011-12 including remanded cases	1,04,272
Total	1,12,570
No. of assessments completed	1,04,391
Arrear cases – 5,737	
Current cases – 98,408	
Remanded cases – 246	
Closing balance	8,179

The above table shows that the Department completed 1,04,391 assessments (69 *per cent* of arrear cases and 94 *per cent* of current cases) during 2011-12 which was more than the addition during the years. Efforts taken by the Department to complete assessments in a large number of current arrear cases was appreciable. However, efforts may be taken to complete assessment of the remaining arrears cases on priority.

Plantation tax assessment

The Department furnished the position of arrears under plantation tax assessment which is as shown below:

Opening balance	3,573
Addition during 2011-12 including remanded cases	1,355
Total	4,928
No. of assessments completed	1,592
Arrear cases – 1,097	
Current cases – 492	
Remanded cases – 3	
Closing balance	3,336

The Department completed 1,592 assessments during 2011-12 which was only 32.31 *per cent* of the assessments due for disposal. It may strive to complete assessment of the remaining cases at the earliest.

6.4 Impact of audit

Revenue impact

During the last four years, audit observations relating to underassessment of building tax, short levy of lease rent, short realisation of collection charges, non-levy of luxury tax etc. with revenue implication of ₹ 365.48 crore were pointed out in 346 paragraphs. Of these, the Department/Government accepted audit observations involving ₹ 16.56 crore and had since recovered ₹ 2.81 crore. The details are shown in the following table:

(₹ in lakh)

Year	Paragraphs included in the LAR		Paragraphs accepted during the year		Amount recovered during the year	
	No.	Amount	No.	Amount	No.	Amount
2007-08	113	330.00	83	607.05	50	102.00
2008-09	91	32,562.00	16	222.05	16	35.04
2009-10	104	1,722.00	34	86.55	33	59.34
2010-11	38	1,934.00	112	739.90	62	84.27
Total	346	36,548.00	245	1,655.55	161	280.65

6.5 Working of Internal Audit Wing

The Internal Audit Wing (IAW) of the Land Revenue Commissionerate is supervised by the Senior Finance Officer under the control of the Commissioner of Land Revenue. The audit of *Taluk* offices, Revenue Divisional Offices and Revenue Recovery Offices are conducted in a period of two to three years. The IAW is manned by one senior superintendent, three junior superintendents and six clerks. Every year about 23 units were taken up for audit which is not sufficient to cover 120 units even in five years. The Department stated that due to shortage of staff and ceiling on TA, the sub-units could not be audited in a year or two. During 2011-12 the Department had cleared only 438 paragraphs out of 20,882 paragraphs which is only 2.1 *per cent* of the outstanding objections. During the previous years also the clearance was marginal. Thus, the functioning of IAW was not effective.

It is recommended that the functioning of the IAW may be strengthened by deploying more staff if necessary so that all units could be audited over a reasonable period and targets fixed for timely clearance of outstanding paragraphs.

6.6 Results of audit

The records of 61 units relating to land revenue and building tax were test checked and underassessment of tax and other irregularities involving ₹ 91.34 crore were detected in 117 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Underassessment and loss under building tax	74	3.61
2.	Underassessment and loss under other items	43	87.73
	Total	117	91.34

The Department accepted underassessment and other deficiencies of ₹ 18.41 crore in 225 cases of which 17 cases involving ₹ 0.55 crore were pointed out in audit during the year 2011-12. The Department realised an amount of ₹ 4.49 crore in 225 cases of which 17 cases involving ₹ 0.14 crore were pointed out in audit during the year 2011-12.

A few illustrative audit observations involving ₹ 1.48 crore are mentioned in the following paragraphs.

6.7 Audit observations

The records of 61 offices relating to land revenue and building tax were scrutinised and several cases of non-compliance of the provisions of the Rules for Assignment of Land within Municipal and Corporation Areas 1995 (RALMCO) and Kerala Revenue Recovery Rules 1968, (KRR Rules) and Kerala Building Tax Rules (KBT) and other cases were found 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 the Tahsildars are pointed out in audit each year, but not only do the irregularities persist but also these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit so that such cases can be avoided, detected and corrected.

6.8 Non-compliance of provisions of Acts/Rules

The provisions of the KBT Act/Rules, RALMCO and KRR Rules require:-

- i) levy of lease rent on land assigned to various persons at the prescribed rates;*
- ii) levy of collection charges on the amount recovered under RR Act and*
- iii) assessment of building tax and luxury tax at prescribed rates.*

It was noticed that the Tahsildars did not observe some of the above provisions at the time of levying tax. This resulted in short levy of lease rent/building tax/ collection charges of ₹ 1.48 crore as mentioned in the paragraphs 6.8.1 to 6.8.7.

6.8.1 Non/short realisation of collection charges

(Three Taluk offices¹ and one Dy. Collector (RR) Office)

Under Rule 4 of the Kerala Revenue Recovery Rules 1968, collection charges are leviable on arrears collected at the rate of five *per cent* when the arrears do not exceed ₹ 5 lakh and at the rate of 7.5 *per cent* when the arrears exceed ₹ 5 lakh. In terms of Rule 5 of the said Rules collection charges leviable in respect of arrears recoverable on behalf of any institution shall be deducted from the amount recovered and the balance alone shall be payable to the institution. Further, institutions except Government departments accepting defaulted payments directly from the defaulter after initiating RR proceedings, shall be liable to pay one *per cent* of the amount so collected towards service charge for initiation of RR proceedings against the defaulter.

It was noticed between February and July 2011 that in three taluk offices and one Dy. Collector's office collection/ service charges amounting to ₹ 18.74 lakh were not realised/short realised from the defaulters by the RR authority or not remitted to Government account after collecting it from the defaulters as given below.

Description	No. of cases	Amount ₹
Non-collection/ Short collection	7	12,95,441
Non-collection of service charge	9	37,502
Non-remittance to Government account	1	5,40,750
	17	18,73,693

Though the recovery could have been monitored easily through the RR register, this was not done. It is essential that the RR register is reviewed periodically by higher authorities/IAW to ensure that collection/service charge is being collected in all cases of recovery.

After the matter was pointed out to the Department, the Department stated (June 2012) that an amount of ₹ 0.42 lakh has been realised and earnest efforts are being taken to realise the balance amount. Further reply has not been received (December 2012).

The matter was reported to the Government in March 2012; their reply has not been received (December 2012).

¹ Taluk Offices: Kozhikode (RR), Kunnathunadu, Thalappally and Dy. Collector (RR), KFC, Trivandrum

6.8.2 Non-levy of lease rent

(Taluk office, Thiruvananthapuram)

Under notification² issued in May 2004 the Government fixed the lease rent of land leased out to public sector institutions for commercial purposes at five *per cent* of the market value of the land with effect from 1 April 2004.

As per order³ issued in November 2008, Government leased out 73 cents of land at Kowdiyar village, Thiruvananthapuram to Kerala Financial Corporation for 30 years, after levying 50 *per cent* of the outstanding lease rent arrears upto 31 March 2008. We noticed (March 2012) from the records of Taluk office, Thiruvananthapuram that while computing the arrears of lease rent for the period from 1 April 2004 to 31 March 2008, the District Collector applied the incorrect rate of two *per cent* instead of five *per cent*. This resulted in short levy of lease rent of ₹ 22.45 lakh.

When this was pointed out in audit (March 2012), the *Tahsildar*, Thiruvananthapuram replied (March 2012) that the amount would be collected from KFC by issuing revised demand notice. Further report has not been received (December 2012).

The matter was reported to the Government (May 2012); their reply has not been received (December 2012).

6.8.3 Non-realisation of luxury tax

(14 Taluk offices⁴)

As per Section 5A of the Kerala Building Tax Act 1975, luxury tax at the rate of ₹ 2,000 is leviable each year on all residential buildings having a plinth area of 278.7 square metres or more and completed on or after 1 April 1999. The Act further stipulates that luxury tax is to be paid in advance on or before the 31 March every year.

It was noticed from the luxury tax assessment register that luxury tax was not demanded/realised on 974 residential buildings having plinth area exceeding 278.7 square metres which were completed after 1 April 1999. This resulted in non-realisation of luxury tax amounting to ₹ 36.24 lakh in 974 cases for the period from April 2000 to March 2011.

² GO(P) No. 126/2004/RD dt: 14 May 2004

³ GO(MS) No. 401/2008/RD dt: 25.11.2008

⁴ Taluk Offices: Kunnathunadu, Vaikom, Changanassery, North Paravur, Kochi, Peermade, Ranni, Kunnathur, Karthikappally, Mavelikkara, Kuttanad, Mallappally, Neyyattinkara and Vadakara

After the matter was pointed out to the Department between May and November 2011 it was stated (May 2012) that an amount of ₹ 20.64 lakh has been realised in 708 cases and steps have been taken to realise the balance amount. Further report has not been received (December 2012).

The matter was reported to the Government in February 2012; their reply has not been received (December 2012).

6.8.4 Building tax escaped assessment

- (Taluk office, Hosdurg)

Under the Kerala Building Tax Act and the Kerala Building Tax (Plinth Area) Rules, 1992 made thereunder, every village officer shall transmit to the assessing authority, within 5 days of the expiry of each month, a monthly list of buildings liable to assessment, together with extracts from building application register of the local authority within whose area the buildings included in the list are situated.

The records of *taluk* office, Hosdurg were cross verified with the records of the Kanhangad Municipality and found that 34 buildings completed between June 2008 and December 2010 were not assessed to building tax. This resulted in non-assessment of building tax of ₹ 29.51 lakh. This was due to the lapse on the part of Village Officer in transmitting the details of

buildings completed with respect

to the details available with the local authority to the assessing officer.

After the matter was pointed out to the Department in January 2012, the Department stated (June 2012) that 10 buildings have been assessed and an amount of ₹ 14.75 lakh has been realised and steps have been taken to assess the remaining buildings. Further report has not been received (December 2012).

The matter was reported to the Government in March 2012; their reply has not been received (December 2012).

- (Taluk offices, Pathanapuram and Peermade)

The building tax assessments of *taluk* offices, Pathanapuram and Peermade were cross verified with the registers containing building numbers maintained by the Village Office/Punalur Municipality for property tax and found that 92 buildings completed between May 2009 and March 2011 were not assessed to building tax. This resulted in non assessment of building tax of ₹ 16.35 lakh.

After the matter was pointed out to the Department between November 2011 and April 2012, the Department stated (June 2012) that out of the 92 buildings, 60 buildings have since been assessed to tax and steps have been taken to assess the remaining buildings. Further report has not been received (December 2012).

The matter was reported to the Government in May 2012; their reply has not been received (December 2012).

- (Taluk office, Hosdurg)

Records of *taluk* office, Hosdurg were cross verified with the records of the Hosdurg Village Office and Bella Village Office and found that 12 buildings completed between April 2008 and August 2009 were not assessed to building tax by the assessing officer though they were identified as newly constructed and reported by the Village Officer. This resulted in non assessment of building tax of ₹ 8.42 lakh.

After the matter was pointed out to the Department in January 2012 the Department stated that an amount of ₹ 4.35 lakh has been realised in 6 cases and action has been taken to realise the balance amount. Further reply has not been received (December 2012).

The matter was reported to the Government in March 2012; their reply has not been received (December 2012).

6.8.5 Short levy due to incorrect assessment

(Taluk offices, Kozhikode and Neyyattinkara)

The Kerala Building Tax Act, 1975 provides for levy of building tax at the rate specified in the schedule to the Act on every building the construction of which is completed on or after 10 February 1992 and the plinth area of which exceeds 100 sq.m in case of residential buildings and 50 sq.m in case of non-residential buildings. In case of buildings situated in special grade *panchayat* where the plinth area exceeds 250 sq.m, the rate of building tax fixed is ₹ 18,000 plus ₹ 1,800 for every additional 10 sq.m and for buildings in corporation area, the tax fixed is ₹ 27,000 plus ₹ 2,250 for every additional 10 sq.m.

It was noticed from the assessment files in *Taluk* offices, Neyyattinkara and Kozhikode that while finalising (between February 2008 and May 2011) the building tax assessment of three non-residential buildings in special grade *panchayat*/ corporation, the assessing authorities have not considered full plinth area of buildings. This resulted in short levy of building tax of ₹ 9.22 lakh.

The matter was pointed out to the Department between February and June 2011. The Department stated (June 2012)

that two buildings had been reassessed and an additional demand of ₹ 8.69 lakh had been created. It also stated that an amount of ₹ 4.83 lakh has been realised and that collection process is going on for the balance amount. Further report has not been received (December 2012).

6.8.6 Non-levy of interest on belated payment of land assignment dues

(Revenue Divisional Office, Kochi)

Rule 9(7) of Kerala Land Assignment Rules 1964 envisages that where the assignee does not remit land value, tree value and arrears of tax due from him and other charges within three months from the date of sanctioning the registry, the registry shall be cancelled, the occupants evicted, the land resumed and reassigned to other eligible families. The patta for the land shall be issued only after the entire amount is paid within three months. It further stipulates that arrears of assignment dues shall bear interest at six *per cent per annum*.

It was noticed from the records of RDO Kochi that *Tahsildar*, Fort Kochi assigned 5.92 ares of land in November 2007 for an amount of ₹ 21.94 lakh. Though the assignee remitted the amount only in January 2011, the *Tahsildar* did not levy interest for the belated payment of assignment dues. This resulted in non-levy of interest of ₹ 3.95 lakh.

The case was pointed out to the Department in October 2011, the Department stated (May 2012) that an amount of ₹ 3.84 lakh has been realised. Further reply has not been received (December 2012).

The matter was reported to the Government (April 2012), their reply has not been received (December 2012).

6.8.7 Non-collection of interest on belated payment of luxury tax

(Seven *Taluk* offices⁵)

The Kerala Building Tax Act, 1975 as amended by the Finance Act, 1999 stipulates that luxury tax at the rate of ₹ 2,000 is leviable each year on all residential buildings having a plinth area of 278.7 square metres or more and completed on or after 1 April 1999. The Act further stipulates that the luxury tax is to be collected in advance on or before the 31 March every year. Section 19 of the Act provides that when luxury tax is not paid on the due date, the arrear of tax shall bear interest at the rate of six *per cent per annum* from the date of default.

It was noticed from the luxury tax register that the Department did not levy interest on belated payment of luxury tax in 943 cases in 7 *taluk* offices. This resulted in non-levy of interest of ₹ 3.49 lakh.

After the matter was pointed out to the Department between March and October 2011, the Department stated that an amount of ₹0.68 lakh had been realised in 193 cases

and that earnest efforts were taken to realise the balance amount. Further report has not been received (December 2012).

The matter was reported to the Government in March 2012; their reply has not been received (December 2012).

⁵ *Taluk* Offices: Pathanapuram, Kozhikode, North Paravoor, Changanassery, Ranny, Karthikapally and Pala.

EXECUTIVE SUMMARY – CHAPTER - VII

Decreasing tax collection and huge shortfall compared to budget estimates	During the past five years the actual revenue collection has been persistently lower than the budget estimates. Budget estimate should be realistic.
Results of audit	<p>In 2011-12, the records of 10 units relating to Power Department were test checked and detected under assessment/short levy of tax involving ₹ 11.54 crore in 11 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 4.92 lakh in one case, which was pointed out by us during the year 2011-12.</p>
What is highlighted in this Chapter	In this Chapter illustrative cases of ₹ 29.34 lakh selected from observations noticed during test check of records relating to Electrical Inspectorates are included. It was found that the provisions of the Acts /Rules were not complied with.
Conclusion	It is recommended that the Government may initiate action to collect revenue due from licencees and also strengthen enforcement so as to see that the licencees conforms to provisions of the law in force, in respect of rates, levy and collection of electricity duty.

CHAPTER-VII : TAXES AND DUTIES ON ELECTRICITY

7.1 Tax administration

Government of Kerala levies duty and surcharge on the sale and consumption of electricity under Kerala Electricity Duty Act, 1963 and Kerala State Electricity Surcharge (Levy and Collection) Act, 1989. The rates are as follows:

Category	Electricity Duty	Surcharge
Duty payable on sale of energy by licensees	At the rate of six paise per unit on energy sold at a price of more than 12 paise per unit (under Section 3).	--
Domestic and commercial consumers	10 <i>per cent</i> of the price indicated in invoice (under Section 4).	--
Public Lighting	NIL	--
Consumer of energy for agricultural purposes	10 <i>per cent</i> of the price indicated in invoice (under Section 4).	--
Industrial consumers taking energy at points below 11 KV	10 <i>per cent</i> of the price indicated in invoice (under Section 4).	--
Industrial consumers taking energy at point 11 KV and above	10 paise per unit of energy consumed (under Section 4).	Maximum of 5 paise per unit
Consumer generating energy for their own consumption	1.2 paise per unit of energy generated and consumed.	--
Interest	At a rate not exceeding 18 <i>per cent</i> (under Section 8)	At a rate not exceeding 12 <i>per cent</i> (under Section 5)

The Kerala Electricity Duty Act, 1963 and Rules made thereunder govern the levy of duty on the sale and consumption of electrical energy in the State. Power Department is under the control of the Secretary (Power) at the Government level and the Chief Electrical Inspector administers the Act.

Government of Kerala have appointed nine¹ licensees for the sale of electricity. The collection of duties and surcharge is through self assessment made by the licensees.

7.2 Trend of receipts

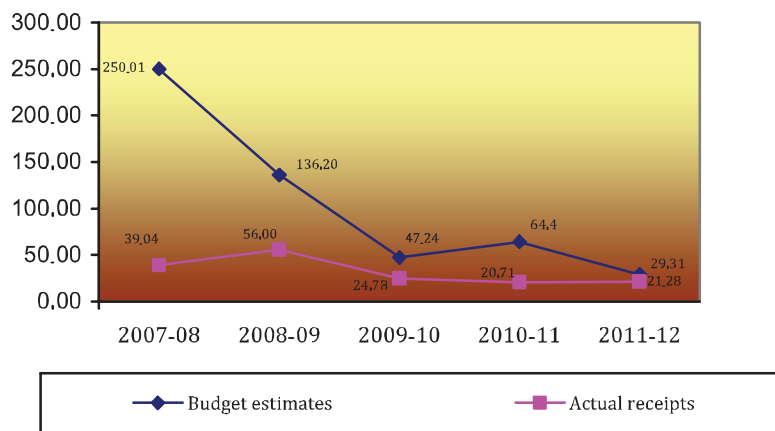
Actual receipts from electricity duty during the last five years (2007-08 to 2011-12) along with the budget estimates during the same period is exhibited in the following table and graph.

¹ KSEB, Cochin Shipyard, Cochin Port Trust, CSEZ, KINESCO (KINFRA), Rubber Park, Thrissur Corporation, KDHP, Munnar and Techno Park, Thiruvananthapuram.

(₹ in crore)

Year	Budget estimates	Actual Receipts	Variation	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts	Percentage of growth
2007-08	250.01	39.04	(-) 210.97	(-) 84.38	13,668.95	0.28	22.84
2008-09	136.20	56.00	(-) 80.20	(-) 58.88	15,990.18	0.35	43.44
2009-10	47.24	24.78	(-) 22.46	(-) 47.54	17,625.02	0.14	(-) 55.75
2010-11	64.40	20.71	(-) 43.69	(-) 67.84	21,721.69	0.09	(-) 16.42
2011-12	29.31	21.28	(-) 8.03	(-) 27.40	25,718.60	0.08	(+) 2.75

Budget estimates and actual receipts - MH 0043



The actual receipts from electricity duty was less than the budget estimate during the last five years.

7.3 Working of Internal Audit Wing

The functioning of the Internal Audit Wing (IAW) of the Electrical Inspectorate is monitored by the Chief Electrical Inspector. The IAW consists of one Accounts Officer, one Administrative Assistant, one Senior Superintendent, five Upper Division clerks and two Lower Division clerks. Employees dealing with accounts and related subjects are selected for internal audit team. No regular training has been imparted to them. All the units are subjected to audit once in a year. Out of the 15 units planned for audit during 2011-12, 13 units have been audited. No separate internal audit manual has been prepared by the Department.

It is recommended that the IAW may be strengthened by imparting training to the persons deployed for audit and by preparing an Internal Audit Manual.

7.4 Results of audit

In 2011-12 records of 10 units relating to Power Department were test checked and underassessment/short levy of tax involving ₹ 11.54 crore were detected in 11 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Short /non-levy of tax	10	11.49
2	Other lapses	1	0.05
	Total	11	11.54

The Department accepted underassessment and other deficiencies of ₹ 4.92 lakh in one case, which was pointed out during the year 2011-12.

A few illustrative cases involving ₹ 0.29 crore are mentioned in the following paragraphs.

7.5 Audit observations

Scrutiny of records of the Chief Electrical Inspectorate and various Electrical Inspectorates revealed several cases of non-compliance of the provisions of the Kerala Electricity Duty Act, 1963 and Kerala State Electricity Surcharge (Levy and Collection) Act, 1989, etc. 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 the Electrical Inspectors remain undetected till we conduct an audit. There is need for the Government to improve the internal control system.

7.6 Non-levy of surcharge

(Chief Electrical Inspectorate, Thiruvananthapuram)

Kerala State Electricity Surcharge (Levy and Collection) Act, 1989 authorises licensees to collect and to pay to Government, Electricity Surcharge at 2.5 paise per unit. Interest at a rate not exceeding 12 *per cent* is leviable for the delayed payment of surcharge. Under the Kerala Electricity Duty Act, 1963 licensees are liable to pay duty and surcharge prescribed under the Act. Kerala Electricity Duty Rules provides that the licensees shall submit monthly/annual returns.

It was noticed (January 2012) from the Duty Remittance Statement furnished by KINESCO Power and Utilities Private Ltd. that they sold 4,21,63,172 units of electrical energy to various HT consumers during 2010-11 for which they did not remit the surcharge due. Though the information was readily

available with the Department, no action was taken to realise the dues. Non-levy of surcharge works out to ₹ 11.49 lakh including interest (up to December 2011).

The matter was pointed out to the Department (January 2012) and the Department stated that action would be taken to realise the same with penal interest.

The case was reported to the Government in March 2012; their reply has not been received (December 2012).

7.7 Non-payment of electricity duty on self consumption of energy/ excess transmission loss

(Chief Electrical Inspectorate, Thiruvananthapuram)

Under Sections 3 and 4 of the Kerala Electricity Duty Act, 1963 the licensees under the Act are authorised to collect the Electricity Duty from the consumers and to pay it to the Government. As per explanation under Section 2(a) where a licensee to whom energy is supplied by the KSEB for supply to others, himself consumes any part of the energy, he shall be deemed to be a consumer in respect of energy so consumed and electricity duty is payable at the rate of 10 *per cent* of invoice price. The line loss admissible to Thrissur Municipal Corporation is eight *per cent*. As per schedule of Tariff with effect from 1 December 2007, energy charges for non-domestic consumers above 500 kWh is ₹ 8.40/unit. As per the Act, duty collected from the consumers shall be remitted to Government before the expiry of the following month and interest at the rate of 18 *per cent* per annum is chargeable on the arrears.

It was noticed (January 2012) from the statements regarding remittance of duty filed by Thrissur Municipal Corporation that it had not paid electricity duty from April to June 2011, in respect of energy consumed for own purposes. It was also noticed that the assessee was claiming transmission loss in excess of permissible limit during the year. The non-payment of duty in this regard works out to ₹ 11.07 lakh including interest.

When the matter was pointed out to the Department (January 2012), the Department

stated that the licensee had not furnished the final accounts and no inspection had been conducted. Action would be taken to realise the amount at the time of inspection. Further report has not been received (December 2012).

The matter was reported to the Government (March 2012); their reply has not been received (December 2012).

7.8 Short levy of electricity duty and interest thereon

(Chief Electrical Inspectorate, Thiruvananthapuram)

As per the tariff of the Kerala State Electricity Regulatory Commission, supply of electrical energy at a voltage exceeding 33 KV under normal conditions is classified as Extra High Tension (EHT) consumer and supply at 33 KV and 22 KV or 11 KV is considered as High Tension (HT) consumer. As per schedule of the Kerala Electricity Duty Act 1963, Electricity duty at 10 paise per unit is to be charged from industrial consumers taking supply of energy at 11 KV and above and in all other cases electricity duty at the rate of ten *per cent* of the price of energy indicated in the invoice including industrial consumers taking supply of energy at points below 11 KV. Government vide notification (August 2012) clarified that electricity duty at the rate of ten *per cent* of the energy charges shall be collected from the non-industrial consumers. As per the Act, duty collected from the consumers shall be remitted to Government before the expiry of the following month and interest at the rate of 18 *per cent* per annum is chargeable on the arrears.

It was noticed (January 2012) that Kannan Devan Hill Plantation Co. (P) Ltd. (KDHP) collected electricity duty at the rate of 10 paise per unit instead of 10 *per cent* of invoice price from eight² non-industrial HT consumers during the period 2010-11 which resulted in short levy of electricity duty amounting to ₹ 6.78 lakh including interest (up to December 2011).

The matter was pointed out to the Department (January 2012) and the Department stated that inspection of accounts maintained by the assessee had not been conducted and action would be initiated to

realise the electricity duty short levied along with interest and penal interest. Further report has not been received (December 2012).

The matter was reported to the Government (March 2012); their reply has not been received (December 2012).

² Edassery Eastend Hotel, EVM Hotel, Grand Plaza, KLD Board, KTDC Tea County, Lockhart, MS Hotels and Talliar.

EXECUTIVE SUMMARY – CHAPTER - VIII

Tax collection	<p>The percentage of variation between the Budget estimates and actual receipts was more than 15 <i>per cent</i> in all the years. The actual receipts during 2010-11 were 19.71 <i>per cent</i> less than the budget estimates. The huge variation indicates that the budget estimates were not realistic.</p>
What is highlighted in this Chapter	<p>The following defects were noticed on scrutiny of the data of Lottery Information Management System (LIMS) installed in the Department.</p> <p>118 multiple claims were submitted for the period 2008-2011 by the prize winners against 91 prize winning tickets, of these 51 cases are still pending finalisation with the Department.</p> <p style="text-align: right;">(Paragraph 8.1.5.2)</p> <p>30,262 prizes involving ₹ 25.80 lakh were given in excess of the number of prizes offered in 66 draws.</p> <p style="text-align: right;">(Paragraph 8.1.5.3)</p> <p>The reliability of the software used by the Department was not tested even after a lapse of four years after its implementation by a competent authority to ensure that all the system controls exist.</p> <p style="text-align: right;">(Paragraph 8.1.5.4)</p> <p>69 prizes amounting to ₹ 3.94 crore were won repeatedly by persons residing at 30 households in Mumbai pointing towards the possibility of fraudulent practice in claiming prizes.</p> <p style="text-align: right;">(Paragraph 8.1.5.6)</p>
Recommendations	<p><i>It is recommended that the Department</i></p> <ul style="list-style-type: none">• may ensure that provisions for ascertaining the genuineness of tickets before payment of prizes are strictly observed by the Department;• may pursue the cases with the crime branch for ensuring credibility;• may finalise accounts of lotteries scheme wise and draw wise for the efficient conduct of lotteries;• may fix a time frame for e-payment and adequate security measures and necessary facilities; and• may ensure a databank of all the persons involved directly or indirectly by making suitable provisions in the software LIMS.

CHAPTER-VIII : NON-TAX RECEIPTS

A. LOTTERIES

8.1 Conduct of Lotteries in the State

8.1.1 Introduction

The Lotteries (Regulation) Act, 1998 promulgated by the Government of India on 7th July 1998 was formed to regulate the system of lotteries in the States of India and empowered the States to regulate the business of lotteries. Lottery as defined in the Act, means a scheme, in whatever form and by whatever name called, for distribution of prizes by lot or chance.

Kerala is the pioneer state which started Government run lottery in India. The aim of conducting lotteries was to enhance the State non-tax revenue and providing a stable income source to the poor and the common. A separate Department called “Directorate of Lotteries” was formed in 1967 under the administrative control of Secretary (Taxes). The functions of the Department were computerised using a web based Lottery Information Management System (LIMS) in the year 2008 developed by a State PSU, M/s KELTRON.

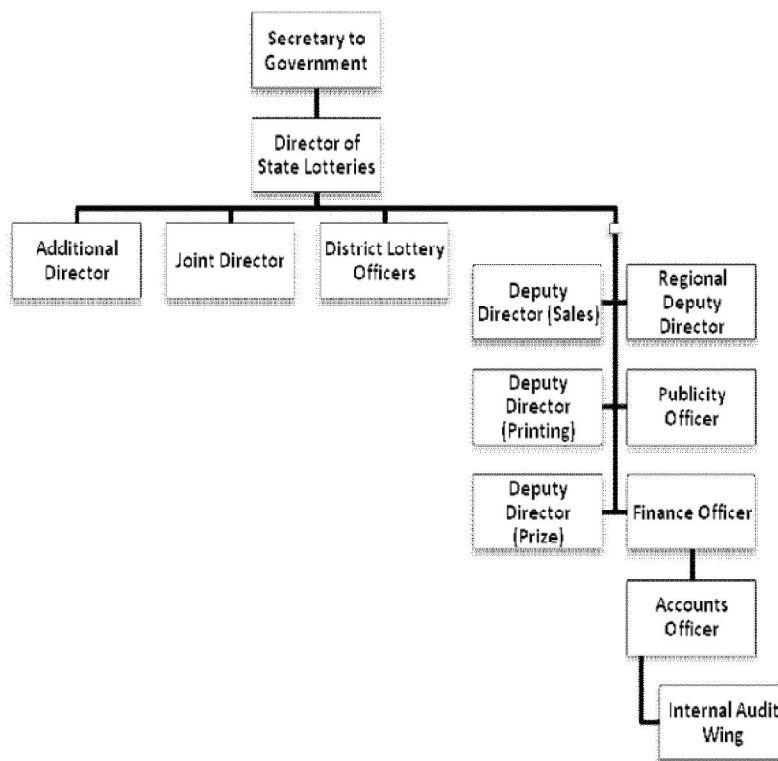
8.1.2 Scope and methodology

The audit was conducted during January to May 2012 for the period from 2006-07 to 2010-11 at the Directorate and selected units and at the selected offices of Commercial Taxes Department with a view to ascertain the efficiency and efficacy of the Department in revenue collection and employment generation.

Before taking up the audit, an Entry Conference was held on 24 January 2012 with the Joint Secretary (Taxes) and Commissioner of Commercial Taxes wherein the scope and methodology of audit was discussed. The Joint Secretary assured full co-operation in the conduct of the review. An Exit Conference was conducted with the Additional Secretary (Taxes) and Director of State Lotteries on 25 June 2012 wherein the audit findings were discussed in detail. The reply received (August 2012) from Department has been incorporated.

8.1.3 Organogram

The organogram of the Department is given below.



8.1.4 Acknowledgement

The audit acknowledges the co-operation of the State Lotteries Department, the Commercial Taxes Department and M/s Keltron in providing the necessary information and records for audit.

8.1.5 Audit Findings

8.1.5.1 Trend of receipts

The Lotteries Department projects the total sale proceeds of lotteries as the total revenue collection of the Department without excluding expenses relating to discount to agents, prize moneys, agents prizes, incentives etc. and other administrative expenses. An analysis of the total and net revenue for the period covered in audit revealed that despite steady increase in total revenue collection during the period, lotteries failed to provide significant contribution to the State revenue-both tax as well as non-tax revenue.

(₹ in crore)

Year	Budget estimate	Actual Receipts	Percentage of Variation	Total Expenditure	Net Revenue	Total Non tax revenue of the State	Percentage of contribution to non tax revenue	Total Tax revenue of the State	Tax on paper lotteries	Percentage to total tax revenue
2006-07	191.00	236.26	23.70	200.35	35.91	937.57	3.83	11941.82	5.50	0.05
2007-08	251.45	333.91	32.79	282.75	51.16	1209.55	4.23	13668.95	19.93	0.15
2008-09	420.00	484.76	15.42	382.11	102.65	1559.29	6.58	15990.18	28.07	0.18
2009-10	474.60	625.74	31.85	513.03	112.71	1852.22	6.09	17625.02	29.62	0.17
2010-11	694.60	557.69	-19.71	470.44	87.25	1930.79	4.52	21721.69	24.15	0.11

It would be seen from the above that the percentage of variation between the Budget estimates and actual was more than 15 *per cent* in all the years. The actual receipts during 2010-11 were 19.71 *per cent* less than the budget estimates. The huge variation indicates that the budget estimates were not realistic.

After this was pointed out, the Department intimated that the decrease in actual receipts during the year 2010-11 was due to the cancellation of draws consequent upon the High Court orders.

System defects

The following defects were noticed on scrutiny of the data of LIMS installed in the Department.

8.1.5.2 Non-utilisation of barcode/secret code system

LIMS has provision for ensuring the genuineness of the ticket before payment of prizes, through "barcode (secret code) reader". As per Rule 9(9) of the Kerala Paper Lotteries (Regulation) Rules 2005, criminal proceedings shall be initiated against those who produce forged tickets.

As per the data obtained from LIMS for the period 2008-2011, 118 multiple claims¹ were received against 91 prize winning tickets. In 67 cases, amounts aggregating to ₹ 73,200 were paid to the second claimant. The remaining 51 cases involving prize money of

₹ 67,800 were not settled and are pending verification. It was noticed that admitting of false claim was due to non-reading the barcode of the ticket to ascertain genuineness of the ticket.

After this was pointed out, the Department admitted that in some cases payments were made without reading barcode, however now prize payments are made after reading the barcode of the tickets with computer scanner and ascertaining its

¹ Claim submitted by more than one person on a single lottery ticket.

genuineness. It was also intimated that criminal proceedings were initiated in one case. Thus non-observance of the system resulted in admitting multiple claims and disputes in distribution of the prizes.

It is recommended that the Department may ensure that provisions for ascertaining the genuineness of tickets before payment of prizes are strictly observed by the Department.

8.1.5.3 Absence of validation controls in LIMS

LIMS has provisions to check the number of prizes offered and paid for each scheme of lottery. The number and the amount of prizes to be paid in each draw are fed in LIMS.

Audit analysed the data relating to prizes offered vis-à-vis prizes paid available in the LIMS during the period from August 2008 to September 2010 and found that the Department had distributed 30,262 prizes involving ₹ 25.80 lakh in excess of the number of prizes offered in 66 draws. The excess grant of the prizes shown by the LIMS needs investigation. Besides, validation controls need to be put in place in the system to ensure that prizes distributed match with the prizes offered.

After this was pointed out, the Government stated that the matter is being investigated and report would be submitted.

8.1.5.4 Software certification

The Department had initiated the software certification for LIMS and the first phase of certification by Standardisation Testing and Quality Certification (STQC) started on 8 March 2010. Neither work-order nor payment was released by the Government so far and STQC discontinued the certification process.

The cash accounting of the district lottery offices relies entirely on the LIMS. Even after the lapse of four years from its implementation, the accuracy and reliability of the software was not tested by a competent authority to ensure that all the system controls exist.

After the case was pointed out in audit, the Department stated that steps had been taken for software certification.

8.1.5.5 Mistake in publication of prize winning lottery ticket

As per Rule 8 of Kerala Paper Lotteries (Regulation) Rules 2005, draws of each lottery are conducted by the Government under the supervision of a panel of judges approved by the Government using tokens and manually operated drums and the results announced after verification with the list of unsold tickets.

The second prize of Thiruvonam Bumper Lottery-2011 won by ticket number IR-339602 was wrongly published as TH-339602. Accordingly, the purchaser of ticket number TH-339602 made a claim and after verification the claim was rejected by the Department since the prize was won by ticket No. IR-339602. The necessary corrections were made by the Department through print and visual media. However, taking into account the mental agony suffered by the claimant,

for non-disbursal of his claim, the Government accorded sanction of ₹ 2 lakh as special compensation vide Government Order dated 29 May 2012. The Department stated that this might be due to a mistake in the computer system and strict preventive measures were being taken to ensure correct uploading of results.

However, the fact remains that in addition to the mental agony suffered by the incorrect claimant, the mistake has resulted in a compensation of ₹ 2 lakh paid by the Department.

8.1.5.6 Repeated winning of prizes by persons from particular addresses

The data regarding prize winning tickets from LIMS were analysed to ascertain the trend if any and it was noticed that out of 1,162 major prizes (above ₹ one lakh) amounting to ₹ 216.19 crore claimed during 2008-09 to 2010-11, 344 prizes (29.6 *per cent*) amounting to ₹ 27.31 crore were claimed by persons residing in other States. Out of the 344 prizes, 69 prizes (20.06 *per cent*) amounting to ₹ 3.94 crore were won repeatedly by persons residing at 30 households in Mumbai. This is a pointer to the possibility of fraudulent practice in claiming prizes.

After the case was pointed out in audit, the Department stated that claims submitted from Thane and Mumbai in Maharashtra were referred to Crime Branch, Economic Offences Wing, Thiruvananthapuram. It was also stated that the matter has been taken up with the Government and due to stringent action, the number of outside claims received seemed reduced.

It is recommended that the Department may pursue the cases with the crime branch for ensuring credibility.

8.1.5.7 Non-preparation of scheme-wise and draw-wise accounts of lotteries

LIMS software provides facility for finalisation of accounts of lotteries - scheme wise and draw wise. However, it was noticed that the Department was not preparing the accounts of lotteries scheme wise/draw wise. Thus three lotteries that suffered loss of ₹ 1.33 crore could not be stopped immediately. Of these, lottery 'Adithya' was stopped after 22 draws while 'Aiswarya' and 'Amulya' were stopped after five and four draws respectively.

Audit recommends that the Department may finalise accounts of lotteries scheme wise and draw wise for the efficient conduct of lotteries.

8.1.5.8 Lack of adequate safeguards in handling of cash

The daily cash collection in the DLOs ranged from ₹ 22 lakh to ₹ 89 lakh on the test checked days in the selected districts. This amount is remitted into the bank account only on the next day. It was stated that this amount is kept in a cash chest and no security personnel for safeguarding the cash overnight was provided. Facilities like counting machines or fake currency detectors had not been provided in the DLOs so as to enable speedy sales, safe and accurate handling of the money received, remitted or distributed.

After the case was pointed out in audit, the Department stated that steps had been taken for implementation of e-payment. However, no time frame has been fixed for the same.

It is recommended that a time frame for e-payment may be fixed and adequate security measures and necessary facilities may be provided till full fledged e-payment is established in the Department.

8.1.5.9 Absence of data to assess the progress made in providing employment

Providing a stable income source to the poor and the common is one of the aims of the Department. But no data was available with the Department to analyse and compare the figures periodically to ascertain the progress made in this regard. Further, audit analysis of the prizes distributed to agents during 2010-11 revealed that out of 214 prizes amounting to ₹ 810.29 lakh, two² agents had got ₹ 447.21 lakh in 122 prizes. It was 55.19 *per cent* of the total amount indicating monopoly of the agents.

After this was pointed out, the Department stated that even though no authenticated reports are available with the Department, it was assumed that the persons who are engaged in indirect employment would be around five to ten times the number of registered agents. It was stated that the tentative number of registered agents was about 40,000. Out of these, active agents were stated to be around 20,000. The above facts indicate that the Department does not have actual figures of registered agents and achievement of the objective that lottery is providing a stable income source to the poor and the common is not being monitored.

It is recommended that the Department may ensure a databank of all the persons involved directly or indirectly by making suitable provisions in the software LIMS and obtaining information from all persons involved.

² M/s Manjoo Lottery and M/s Meenakshi Lucky Centre

B. INTEREST RECEIPTS

8.2 Non-realisation of interest on loans

Under the provisions of Article 234 of the Kerala Financial Code Volume I Chapter IX, before sanctioning and disbursing a loan the sanctioning authority is required to specify the terms and conditions including the date of commencement of payment of instalments, the periodicity and time within which each loan has to be fully repaid with interest due. Interest is to be determined on the balance of loan outstanding till the dues are fully paid. Any default in the payment of interest upon a loan or in the repayment of the principal, the authority concerned should immediately take steps to get the default remedied. Further, the Government in its circular⁴ instructed the Administrative Departments to maintain a separate register to closely monitor remittance of principal loan and interest and issue demand notices to defaulters.

Government sanctions interest bearing loans to institutions³ and individuals for various purposes. The loans i.e. principal and interest as prescribed are recoverable within a stipulated period in equal periodical instalments as per terms and conditions of the sanction orders. In case of default in repayment of loan or any instalment or interest due as per the terms and conditions of the sanction, penal interest is chargeable from loanees.

Mention was made in paragraph 10.1 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for

the year ended 31 March 1997 highlighting the shortcomings during the years 1992-93 to 1995-96 regarding recoveries of interest on loans and advances. The Public Accounts Committee (PAC 2001-04) in their 47th Report recommended that separate centralised control mechanism should be evolved in Finance Department for the coordination and effective monitoring of recovery of loans and interest and for that the Finance Department may issue instructions to the concerned authorities for compliance of guidelines in this regard. To ensure compliance of instructions and monitor recoveries, the Finance Department was required to scrutinise the records from time to time. However, a separate centralised control mechanism in Finance Department for the effective monitoring of recovery of loans and interest as recommended by the PAC has not been implemented so far. Due to the absence of monitoring action on the part of the Department, interest and penal interest amounting to ₹ 17.02 crore continued to be outstanding on 31 loans sanctioned between 1979 and 2009 as given detailed in *Annexure III*.

³ Commercial and Public sector undertakings, Co-operative societies, Local bodies, Industries etc.

⁴ Circular No.56/98/Fin dated 10 August 1998.

Further, in respect of 101 cases, the terms and conditions have not been fixed while sanctioning the loan during the period from 1982 to 2010 which resulted in non-levy of interest of ₹ 189.56 crore including penal interest as detailed in *Annexure-IV*.

After this was pointed out (July 2012) the Government stated (August 2012) that for the coordination and effective monitoring of recovery of loans sanctioned by the Government, the Finance Department had issued instruction to all the Administrative Departments and the Heads of various Departments to initiate urgent action to fix the terms and conditions of past cases of loans and also to take steps for repayment of the instalments of loans and interest dues.



Thiruvananthapuram,
The

(Dr. BIJU JACOB)
Accountant General (ERSA)
Kerala

Countersigned



New Delhi,
The

(VINOD RAI)
Comptroller and Auditor General of India

ANNEXURE - I

Short levy of tax due to suppression of imports in respect of Cashew dealers

(Para 2.11.12.4)

(₹ in lakh)

Name of assessee	TIN	2006-07	2007-08	2008-09	2009-10	2010-11	Total
AM Cashews	32020228304	0.00	0.00	0.00	31.74	0.00	31.74
Alphonsa cashew industries	32020232512	0.00	21.76	0.00	71.89	0.00	93.64
Asiatic Export Enterprises	32020218764	76.95	167.73	171.60	331.17	0.00	747.46
Associated Cashew Industries	32020246225	1.69	198.06	47.55	183.32	0.00	430.62
M/s Anu Cashews	32020282282	79.47	49.68	126.91	220.54	10.44	487.03
Beena Cashew Company	32020298774	1.30	0.00	0.00	14.22	0.00	15.52
Classic Cashews	32020281325	0.00	0.00	68.05	83.16	0.00	151.21
Kerala Nut Food Company	32020213724	0.95	146.29	327.41	651.14	195.39	1321.17
Krishna Giri Cashews	32020225975	0.00	0.97	0.00	24.30	0.00	25.27
Lal Cashew Factory	32020258522	13.02	0.00	0.00	6.70	0.00	19.72
M Abdul Rahuman Kunju	32020215502	0.00	182.63	55.74	217.28	62.00	517.65
Peniel Cashew Factory	32020288705	0.00	0.00	25.28	130.81	0.00	156.08
Prakash Exports	32020222162	2.92	18.84	246.14	147.82	211.86	627.58
Prasanthi Cashew Company	32020270874	31.17	160.34	0.00	268.98	0.00	460.49
Quilon Export Enterprises	32020235234	0.84	122.52	229.28	314.92	190.63	858.19
Rajan Cashew Company	32020201394	0.00	0.00	0.00	36.99	0.00	36.99
Raj Kumar Impex Private Limited	32020260952	384.91	34.69	24.05	214.13	59.12	716.90
St Pauls Cashew Factory	32020281202	0.00	0.00	0.00	52.84	0.00	52.84
Sunfood Corporation	32020279255	4.01	105.84	232.31	185.36	183.92	711.43
Sai Export Enterprises	32020219732	32.26	87.20	168.78	205.78	153.93	647.95
Sreelekshmi Cashew Corporation	32020208684	0.00	0.00	454.62	545.46	204.25	1,204.33
The Kerala State Cashew Development Corporation	32020261222	0.00	0.00	0.00	79.05	0.00	79.05
Vijayalaxmi Cashew Company	32020285386	0.00	164.38	1,622.06	1426.33	1,005.65	4,218.43
Total		629.48	1,460.95	3,799.77	5,443.91	2,277.19	13,611.29

ANNEXURE - II

**Turnover relating to the sale of DEPB were suppressed/under-reported
(Para 2.11.12.4)**

Sl No	TIN	Year	Office to which relates	DEPB received as per the data available with DGFT	DEPB/VKUY Licence value received (Face value-10 per cent discount)	DEPB conceded in the annual return	Percentage of discount on face value	T.O escaped/suppressed	Short levy of tax	Penalty	Interest	Total short levy
1	32010843824 M/s Seaboy Fisheries	2007-08	CTO, 3 rd Circle, Thiruvanthapuram	60.26	54.23	8.96	0.00	45.27	1.81	3.62	0.87	6.30
2	32506498345 M/s Muhas Ice plant	2006-07 2007-08 2008-09 2009-10	CTO, 2 nd Circle, Mattancherry	54.95 64.15 12.22 10.41	49.45 57.73 11.00 9.37	0.00 0.00 0.00 0.00	0.00 0.00 0.00 0.00	49.45 57.73 11.00 9.37	1.98 2.31 0.44 0.38	3.96 4.62 0.89 0.76	1.19 1.11 0.16 0.09	7.12 8.04 1.49 1.23
3	32150623522 Geo Aquatic (P) Ltd	2006-07 2007-08 2008-09 2009-10 2010-11	CTO, 2 nd Circle, Mattancherry	40.26 21.30 40.13 53.89 47.05	36.24 19.17 36.12 48.50 42.34	9.81 0.00 0.00 0.00 0.00	0.00 0.00 0.00 0.00 0.00	26.42 19.17 36.12 48.50 42.34	1.06 0.77 1.46 1.96 1.71	2.11 1.53 2.92 3.92 3.42	0.63 0.37 0.53 0.47 0.21	3.80 2.67 4.90 6.35 5.34
4	32071862395 M/s Zeus Exports	2008-09 2009-10 2010-11	Spl.Circle II, Ernakulam	208.97 67.46 11.82	188.08 60.72 10.64	121.18 0.00 0.00	0.00 0.00 0.00	66.90 60.72 10.64	2.70 2.45 0.43	5.41 4.91 0.86	0.97 0.59 0.05	9.08 7.95 1.34
5	32020281922 M/s Chethana Cashew Corporation	2006-07 2007-08 2008-09 2009-10 2010-11	Special Circle, Kollam	7.59 16.81 50.05 166.05 66.29	6.83 15.13 45.05 149.45 59.66	1.37 7.92 35.55 1.65 51.66	0.00 0.00 0.00 0.00 0.00	5.45 7.20 9.50 147.79 8.00	0.22 0.29 0.38 5.97 0.32	0.44 0.58 0.77 11.94 0.65	0.13 0.14 0.14 1.43 0.04	0.79 1.00 1.29 19.35 1.01
6	32020200472 M/s India food Exports	2007-08 2008-09 2009-10 2010-11	Special Circle, Kollam	93.20 850.39 227.44 362.13	83.88 765.35 204.69 325.92	0.00 41.31 2.07 206.96	0.00 0.00 0.00 0.00	83.88 724.04 202.62 118.96	3.36 29.25 8.19 4.81	6.71 58.50 16.37 9.61	1.61 10.53 1.96 0.58	11.68 98.28 26.52 15.00

Sl No	TIN	Year	Office to which relates	DEPB received as per the data available with DGFT	DEPB/VKUY Licence value received-10 per cent discount	DEPB conceded in the annual return	Percentage of discount on face value	T.O escaped/suppressed	Short levy of tax	Penalty	Interest	Total short levy
7	32010621985 M/s Mayi Industries	2007-08	CTO, 1 st Circle, Thiruvananthapuram	61.62	55.45	0.00	0.00	55.45	2.22	4.44	1.06	7.72
		2008-09		14.11	12.70	0.00	0.00	12.70	0.51	1.03	0.18	1.72
		2009-10		49.77	44.80	0.00	0.00	44.80	1.81	3.62	0.43	5.86
		2010-11		88.47	79.62	0.00	0.00	79.62	3.22	6.43	0.39	10.04
8	32020223242 M/s Kailas Cashew Exports	2008-09	Special Circle, Kollam	1,518.84	1,366.95	0.00	0.00	1,366.95	55.22	110.45	19.88	185.56
		2009-10		372.80	335.52	0.00	0.00	335.52	13.55	27.11	3.25	43.92
		2010-11		309.14	278.22	0.00	0.00	278.22	11.24	22.48	1.35	35.07
9	32020232512 M/s Alphonsa Cashew	2008-09	Spl circle Kottarakara	1,092.73	983.46	773.11	0.00	210.34	8.50	17.00	3.06	28.55
		2010-11		396.74	357.07	277.46	0.00	79.60	3.22	6.43	0.39	10.03
10	32020220417 M/s Chandra Cashew	2008-09	Spl.circle Kollam	346.02	311.42	0.00	0.00	311.42	12.58	25.16	4.53	42.27
		2010-11		194.98	175.48	137.26	0.00	38.22	1.54	3.09	0.19	4.82
11	32020258915 M/s Beffy Cashew	2008-09	Spl circle Kottarakara	266.28	239.65	216.19	0.00	23.45	0.95	1.90	0.34	3.18
		2009-10		164.25	147.82	144.02	0.00	3.80	0.15	0.31	0.04	0.50
		2010-11		285.04	256.54	237.19	0.00	19.35	0.78	1.56	0.09	2.44
		2010-11		312.54	281.29	19.12	0.00	262.16	10.59	21.18	1.27	33.05
13	32010105565 M/s Travancore Titanium products	2006-07	Spl. Circle, Thiruvananthapuram	140.93	126.84	0.00	0.00	126.84	5.07	10.15	0.30	15.53
		2007-08		3.63	3.26	0.00	0.00	3.26	0.13	0.26	0.01	0.40
		2008-09		6.70	6.03	0.00	0.00	6.03	0.24	0.49	0.01	0.74
		2009-10		35.21	31.69	0.00	0.00	31.69	1.28	2.56	0.03	3.87
		2010-11		50.42	45.38	29.91	0.00	15.46	0.62	1.25	0.01	1.88
14	32010158035 M/s Hindustan Latex Ltd	2007-08		18.23	16.41	0.00	0.00	16.41	0.66	1.31	0.03	2.00
		2008-09		121.01	108.91	0.00	0.00	108.91	4.40	8.80	0.16	13.36
		2009-10		31.70	28.53	0.00	0.00	28.53	1.15	2.30	0.03	3.48
15	32020285972 M/s Swathy Exports	2006-07	Spl.Circle, Kollam	33.15	29.84	26.88	0.00	2.96	0.12	0.24	0.01	0.36
		2007-08		49.58	44.62	0.00	0.00	44.62	1.78	3.57	0.09	5.44
		2008-09		189.06	170.15	0.00	0.00	170.15	6.87	13.75	0.25	20.87
		2009-10		31.80	28.62	16.18	0.00	12.44	0.50	1.01	0.01	1.52

Sl No	TIN	Year	Office to which relates	DEPB received as per the data available with DGFT	DEPB/VKUY Licence value received-10 per cent discount)	DEPB conceded in the annual return	Percentage of discount on face value	T.O escaped/suppressed	Short levy of tax	Penalty	Interest	Total short levy
16	32020270874 Prasanthi Cashew	2006-07 2007-08 2008-09 2009-10 2010-11	Spl.Circle, Kollam	93.44 142.41 1,003.94 568.29 422.07	84.10 128.17 903.55 511.46 379.86	4.45 6.24 0.00 0.00 0.00	0.00 0.00 0.00 0.00 0.00	79.65 121.93 903.55 511.46 379.86	3.19 4.88 36.50 20.66 15.35	6.37 9.75 73.01 41.33 30.69	0.19 0.23 1.31 0.50 0.18	9.75 14.87 110.82 62.49 46.22
17	32020219732 M/s Sai Export Enterprises	2007-08 2008-09 2009-10 2010-11		156.29 954.40 336.14 354.87	140.66 858.96 302.52 319.38	117.75 0.00 0.00 0.00	0.00 0.00 0.00 0.00	22.91 858.96 302.52 319.38	0.92 34.70 12.22 12.90	1.83 69.40 24.44 25.81	0.44 12.49 2.93 1.55	3.19 116.60 39.60 40.26
18	32020226932 M/s Southern Cashew Export	2007-08 2008-09 2009-10 2010-11		130.39 653.28 235.24 372.33	117.35 587.95 211.72 335.10	9.85 476.25 205.45 311.52	0.00 0.00 0.00 0.00	107.51 111.71 6.27 23.58	4.30 4.51 0.25 0.95	8.60 9.03 0.51 1.91	2.06 1.62 0.06 0.11	14.96 15.16 0.82 2.97
19	32020237304 Tasty nuts	2007-08 2008-09 2010-11		347.65 3,314.48 4,211.83	312.88 2,983.04 3,790.65	226.02 1,873.90 3,551.36	0.00 0.00 0.00	86.87 1,109.14 239.30	3.47 44.81 9.67	6.95 89.62 19.34	1.67 16.13 1.16	12.09 150.56 30.16
20	32020294252 Sreelekshmi Cashews	2007-08 2008-09 2010-11		1,160.11 9,355.18 4,624.29	1,044.10 8,419.66 4,161.86	714.40 3,552.04 3,861.18	0.00 0.01 0.00	329.69 4,867.62 300.68	13.19 196.65 12.15	26.38 393.30 24.29	6.33 70.79 1.46	45.89 660.75 37.90
21	32020212622 South Kerala Cashews	2007-08 2008-09 2009-10 2010-11	Spl. Circle, Kollam	286.12 1,494.04 690.19 468.83	257.51 1,344.63 621.17 421.94	8.64 602.40 188.40 44.27	0.00 0.00 0.00 0.00	248.87 742.24 432.78 377.67	9.95 29.99 17.48 15.26	19.91 59.97 34.97 30.52	4.78 10.80 4.20 1.83	34.64 100.75 56.65 47.60
22	32020272505 Noble cashew	2007-08 2008-09		43.25 286.81	38.93 258.13	26.27 212.54	0.00 0.00	12.66 45.59	0.51 1.84	1.01 3.68	0.24 0.66	1.76 6.19
23	32020298875 Shyam Cashew	2007-08 2008-09 2009-10		23.98 225.72 45.89	21.58 203.15 41.30	14.29 129.16 18.29	0.00 0.00 0.00	7.29 73.99 23.01	0.29 2.99 0.93	0.58 5.98 1.86	0.14 1.08 0.22	1.02 10.04 3.01
24	32020269502 Najeem	2007-08 2009-10		13.07 122.89	11.77 110.60	6.17 108.23	0.00 0.00	5.60 2.37	0.22 0.10	0.45 0.19	0.11 0.02	0.78 0.31

Sl No	TIN	Year	Office to which relates	DEPB received as per the data available with DGFT	DEPB/Licence value received (Face value-10 <i>per cent</i> discount)	DEPB conceded in the annual return	Percentage of discount on face value	T.O escaped/suppressed	Short levy of tax	Penalty	Interest	Total short levy
	Cashew Industries	2010-11		278.54	250.68	229.15	0.00	21.53	0.87	1.74	0.10	2.71
25	32020213724 Kerala Nutfood Company	2007-08	Spl.Circle, Kollam	84.82	76.34	61.72	0.00	14.61	0.58	1.17	0.28	2.03
		2008-09		871.86	784.68	628.32	0.00	156.36	6.32	12.63	2.27	21.22
		2010-11		403.89	363.50	322.51	0.00	40.99	1.66	3.31	0.20	5.17
26	3202028723 A.A. Nuts	2008-09		33.60	30.24	4.68	0.00	25.56	1.03	2.06	0.37	3.47
		2010-11	70.40	63.36	58.59	0.00	4.77	0.19	0.39	0.02	0.60	
27	32020271302 Excellent cashew	2008-09		320.73	288.65	223.34	0.00	65.31	2.64	5.28	0.95	8.87
		2010-11		94.68	85.21	79.11	0.00	6.10	0.25	0.49	0.03	0.77
28	32020299742 Sandhya Cashew	2008-09		233.63	210.27	143.73	0.00	66.53	2.69	5.38	0.97	9.03
		2009-10		148.16	133.35	132.65	0.00	0.69	0.03	0.06	0.01	0.09
		2010-11	199.24	179.32	165.47	0.00	13.85	0.56	1.12	0.07	1.75	
29	32020220553 SN Cashew International	2009-10		31.31	28.18	0.00	0.00	28.18	1.14	2.28	0.27	3.69
		2010-11		10.08	9.07	0.00	0.00	9.07	0.37	0.73	0.04	1.14
30	32020827265 Luke Exports	2009-10		43.16	38.84	0.00	0.00	38.84	1.57	3.14	0.38	5.08
				Total								

ANNEXURE - III

Details of Loan sanctioned to various PSUs - Agricultural Department

(Para 8.2)

Sl No.	Name of PSU	Sanction Order	Sanctioned Amount (₹)	Date of disbursement	Rate of Interest (%)	Rate of Penal interest (%)	Loan Repaid (₹)	Loan amount outstanding (₹)	Interest paid (a) (₹)	Interest (b) * (₹)	Penal Interest (c) ** (₹)	Total int. to be paid [(b + c) - (a)] (₹)
1	KAICO	1.GO(MS) No. 126/79/AD dated 22.03.79	5,00,000	29.03.1979	10.75	2.5	2,30,772	2,69,228		9,55,959	2,22,316	11,78,274
2		2.GO(MS) No. 303/80/AD dated 08.08.80	6,00,000	21.08.80	10.5	2.5	1,20,000	4,80,000		15,94,159	3,79,562	19,73,721
3		3.GO(MS) No. 1866/81/AD dated 28.07.81	1,00,000	07.08.81	11	2.5	30,000	70,000	2,200	2,36,147	53,670	2,87,617
4		4.GO(MS) No. 1866/81/AD dated 28.07.81	75,000	07.08.81	11	2.5	22,500	52,500	1,650	1,77,111	40,252	2,15,713
5		5.GO(Rt) No. 2148/81/AD dated 05.09.81	1,00,000	08.09.81	11	2.5	30,000	70,000	2,000	2,35,472	53,516	2,86,989
6		6.GO(Rt) No. 2148/81/AD dated 05.09.81	1,50,000	08.09.81	11	2.5	45,000	10,500	3,500	3,53,208	80,275	4,29,983
7		7.GO(Rt) No. 2216/81/AD dated 23.09.81	1,00,000	13.10.81	11	2.5	30,000	70,000	2,200	2,34,734	53,349	2,85,883
8		8.GO(Rt) No. 2131/82/AD dated 11.08.82	3,00,000	19.08.82	12	2.5	60,000	2,40,000	3,600	8,53,506	177,814	10,27,719
9		9.GO(Rt) No. 3141/82/AD dated 07.12.82	2,66,000	15.12.82	12	2.5	53,200	2,12,800	2,926	7,48,520	1,55,942	9,01,535
10		10.GO(Rt) No. 2105/83/AD	75,000	19.08.83	12	2.5	7,500	67,500		2,31,948	48,323	2,80,271

Sl No.	Name of PSU	Sanction Order	Sanctioned Amount (₹)	Date of disbursement	Rate of Interest (%)	Rate of Penal interest (%)	Loan Repaid (₹)	Loan amount outstanding (₹)	Interest paid (₹)	Interest (b) * (₹)	Penal Interest (c) ** (₹)	Total int. to be paid (b + c) - (a) (₹)
		dated 11.08.83										
11		11.GO(Rt) No. 2896/83/AD dated 07.11.83	2,25,000	18.11.83	12	2.5	22,500	2,02,500		6,89,787	14,37,06	8,33,493
12		14.GO(MS) No. 242/90/AD dated 10.09.90	50,00,000	22.11.90	17.5	2.25		50,00,000		1,86,98,630	24,04,110	2,11,02,740
13		15.GO(MS) No. 262/97/AD dated 17.09.97	25,00,000	23.10.97	19.5	2.75		25,00,000		70,42,705	9,93,202	80,35,908
14		16.GO(MS) No. 128/98/AD dated 29.06.98	50,00,000	28.10.98	19.5	2.75		50,00,000		1,30,97,055	18,47,021	1,49,44,075
15		17.GO(Rt.) No. 399/05/AD 15.03.05	2,00,000	04.04.05	15.5	2.75		2,00,000		2,16,830	38,470	2,55,300
16		19.GO(Rt.) No. 488/06/AD dated 31.03.06	89,99,000	31.03.06	15.5	2.75		89,99,000		83,76,713	14,86,191	98,62,904
17		21.GO(Rt.) No. 565/09/AD dated 31.03.09	90,00,000	31.03.09	14.5	2.5		90,00,000		39,18,575	6,75,616	45,94,192
18	KSCDC	1.GO(Rt.) No. 671/80/AD dated 15.03.80	16,00,000	02.04.1980	10.75	2.5	123077	14,76,923	5,16,000	50,83,225	11,82,145	57,49,370
19		2.GO(Rt.) No. 1315/1981/AD dated 15.05.81	2,25,000	27.05.1981	11	2.5	0	2,25,000	45,000	7,63,927	1,73,620	8,92,547
20		3.GO(Rt.) No. 1521/81/AD dated 10.06.81	4,55,000	22.06.1981	11	2.5	0	4,55,000	89,000	15,41,266	3,50,288	18,02,553
21		4.GO(Rt.) No. 830/1982/AD dated 25.03.82	20,00,000	26.03.1982	11	2.5	0	20,00,000	2,00,000	66,07,836	1,50,1781	79,09,616
22		5.GO(Rt) No.	22,50,000	05.07.1982	11	2.5	0	22,50,000		73,65,329	16,73,938	90,39,267

Audit Report (Revenue Receipts) for the year ended 31 March 2012

Sl No.	Name of PSU	Sanction Order	Sanctioned Amount (₹)	Date of disbursement	Rate of Interest (%)	Rate of Penal interest (%)	Loan Repaid (₹)	Loan amount outstanding (₹)	Interest paid (a) (₹)	Interest * (b) (₹)	Penal Interest (c) ** (₹)	Total int. to be paid [(b + c) - (a)] (₹)
		1762/82/AD dated 03.07.82										
23		6.GO(Rt) No. 1139/82/AD dated 22.04.82	5,00,000	24.04.1982	11	2.5	0	5,00,000		16,47,589	3,74,452	20,22,041
24		7.GO(Rt) No. 975/83/AD dated 23.04.83	4,50,000	26.04.1983	12	2.5	0	4,50,000		15,63,337	3,25,695	18,89,032
25		8.GO(Rt) No. 2641/83/AD dated 10.10.83	8,50,000	30.03.1984	12	2.5	0	8,50,000		28,58,236	5,95,466	34,53,701
26		9.GO(Rt) No. 885/85/AD dated 29.03.85	13,00,000	30.03.1985	13.5	2.5	0	13,00,000		47,42,347	8,78,212	56,20,559
27		10.GO(Rt) No. 892/93/AD dated 13.07.93	23,871	20.08.1993	15	2.5	0	23,871		66,688	11,115	77,803
28		11.GO(Rt) No. 573/90/AD dated 30.03.90	20,00,000	31.03.1990	14.5	2.25	0	20,00,000		63,84,767	9,90,740	73,75,507
29		12.GO(Rt) No. 380/91/AD dated 23.02.91	20,00,000	11.03.1991	14.5	2.25	0	20,00,000		61,10,658	9,48,205	70,58,863
30		13.GO(Rt) No. 398/93/AD dated 22.03.93	9,29,392	31.03.1993	15	2.5	0	929,392		26,50,677	4,41,779	30,92,456
31	K1.DC	GO (MS) No. 338/99/AD dated. 10.12.1999	1,74,00,000	10.12.1999	19.5	2.75	0	174,00,000		4,17,85,027	58,92,760	4,76,77,788
		Total	6,51,73,263					64,30,4214		14,68,31,968	241,93,530	17,01,57,422

*[(Loan amt - Loan repaid) * rate of int./ 365] * No. of days from date of drawal to 31/3/12

** [(Loan amt - Loan repaid) * rate of Penal int./ 365] * No. of days from date of drawal to 31/3/12

ANNEXURE - IV**Interest receipts****(Para 8.2)**

Sl No.	Name of loanee	Sanction order No.& date	Year of sanction	Loan Amount (₹)	Rate of interest of contemporary loan	Interest due as on 31/03/2012** (₹)	Penal interest due (@ 2.5%) (₹)	Total (Interest + Penal Interest) (₹)
1	KAICO	1.GO(Rt) No. 3141/82/AD dated 07.12.82	1982	6,00,000	12	21,12,066	4,40,014	25,52,079
2	KAICO	2.GO(Rt) No. 3141/82/AD dated 07.12.82	1982	7,00,000	12	24,64,077	5,13,349	29,77,426
3	KSCDC	2.GO(Rt.) No.1106/93/AD dated 21.08.93	1993	6,00,000	15	16,75,973	2,79,329	19,55,301
4	KSCDC	1.GO(Rt) No. 480/94/AD dated 26.03.94	1994	7,64,500	15	20,67,292	3,44,549	24,11,840
5	KSCDC	3.GO(Rt.) No. 1220/94/AD dated 07.09.94	1994	2,76,500	15	7,28,937	1,21,490	8,50,427
6	Steel Complex Ltd.	1. GO(Rt) No. 1040/ 95/ ID dated 7.12.1995	1995	1,16,38,000	10	1,90,00,231	47,50,058	2,37,50,288
7	KSCDC	4.GO(Rt.) No. 3937/95/Fin dated 02.09.95	1995	10,00,000	15	24,88,356	4,14,726	29,03,082
8	KSCDC	5.GO(Rt.) No. 4741/95/Fin dated 07.11.95	1995	12,50,000	15	30,76,541	5,12,757	35,89,298
9	Handicrafts Development Corporation	1.GO(Rt) No 1328/97 ID dated 18/12/1997	1997	10,00,000	10	14,29,315	3,57,329	17,86,644
10	Scooters Kerala	4.GO(Rt) No. 1133/97/ ID dated 23/10/1997	1997	1,40,00,000	10	2,02,25,205	50,56,301	2,52,81,507
11	Kerala State Salycilate & Chemicals	1. GO(Rt) No. 1201/ 98/ ID 24.12.1998	1998	2,50,000	10	3,31,918	82,979	4,14,897
12	Punalur Paper Mills	GO(Rt) No. 694/98/ID dated 10.08.1998	1998	761,000	10	10,38,713	2,59,678	12,98,391
13	TELK	1. GO(Ms.) No 89/98/ ID dated 19.06.1998	1998	1,58,00,000	10	2,17,91,014	54,47,753	2,72,38,767
14	KSCDC	6.GO(MS.) No. 34/98/AD dated	1998	8,00,00,000	19.5	22,08,36,164	2,83,12,329	24,91,48,493

Sl No.	Name of loanee	Sanction order No.& date	Year of sanction	Loan Amount (₹)	Rate of interest of contemporary loan	Interest due as on 31/03/2012** (₹)	Penal interest due (@ 2.5%) (₹)	Total (Interest + Penal Interest) (₹)
		06.02.98						
15	KSCDC	7.GO(MS.) No.55/98/AD dated 04.03.98	1998	80,00,000	19.5	21,97,2493	28,16,986	2,47,89,479
16	KELTRON	1. GO(Ms) No .109/99/ ID dated 22.07.1999	1999	1,00,00,000	10	1,27,01,370	31,75,342	1,58,76,712
17	Kerala Ceramics Ltd.	1. GO(Ms.) No 91/99/ ID dated 17.06.1999	1999	2,10,25,000	10	2,69,06,240	67,26,560	3,36,32,800
18	Kerala state Salycilate & Chemicals	2. GO(Ms) No. 819/99/ID dated 20.08.1999	1999	22,00,000	10	27,76,822	6,94,205	34,71,027
19	Kerala state Salycilate & Chemicals	3. GO(MS) No. 1058/ 99/ ID dated 27.10.1999	1999	44,00,000	10	54,71,671	13,67,918	68,39,589
20	KSCDC	1. GO(Rt) No 250/99/ ID dated 18.03.1999	1999	3,44,00,000	10	4,48,80,219	1,12,20,055	5,61,00,274
21	Scooters Kerala	1.GO(Rt) No. 93/99/ ID dated 03.2.1999	1999	55,00,000	10	72,40,411	18,10,103	90,50,514
22	Scooters Kerala	2. GO(MS) No. 819/99/ ID dated 20.08.1999	1999	80,00,000	10	1,00,97,534	25,24,384	1,26,21,918
23	TELK	2. GO(Ms.) No 22/99/ ID dated 03.02.1999	1999	117,24,000	10	1,54,33,923	38,58,481	1,92,92,404
24	KSCDC	8.GO(MS.) No.38/99/AD did 12.02.99	1999	25,00,000	19.5	64,05,616	8,21,233	72,26,849
25	CAPEX	1. GO(Ms) No 77/00 ID dated 19.06.2000	2000	1,69,000	10	1,99,235	49,809	2,49,043
26	CAPEX	2. GO(Ms) No 148/00 ID dated 04.12.2000	2000	12,80,00,000	10	14,50,08,219	362,52,055	18,12,60,274
27	CAPEX	3. GO(Rt) No 981/00 ID dated 02.09.2000	2000	1,25,00,000	10	1,44,79,452	36,19,863	1,80,99,315
28	Chalakkudi Refractories	1. GO(Rt) No 659/00/ ID dated 15.06.2000	2000	1,03,000	10	1,21,540	30,385	1,51,925
29	TELK	3. GO(Ms.) No 152/00/ ID dated 06.12.2000	2000	1,62,00,000	10	1,83,43,726	45,85,932	2,29,29,658
30	Kerala Soaps and Oils Ltd	1.GO(Ms) NO. 165/01// ID dated 15.12.2001	2001	3,72,00,000	10	3,83,10,904	95,77,726	4,78,88,630

Sl No.	Name of loanee	Sanction order No.& date	Year of sanction	Loan Amount (₹)	Rate of interest of contemporary loan	Interest due as on 31/03/2012** (₹)	Penal interest due (@ 2.5%) (₹)	Total (Interest + Penal Interest) (₹)
31	KSBC	1.GO(Rt) No 2000/01 ID dated 22.02.2001	2001	30,00,000	10	33,32,877	8,33,219	41,66,096
32	Metro Politan Engineering Co.	1. GO(Ms) No 34/01/ID dated 23.02.2001	2001	70,00,000	10	77,74,795	19,43,699	97,18,493
33	KELTRON	2. GO(Rt) No. 82/02/ ID dated 03.08.2002	2002	4,23,00,000	10	4,08,86,137	1,02,21,534	5,11,07,671
34	Kerala state Salycilate & Chemicals	4. GO(Rt) No. 601/02/ ID dated 12.07.2002	2002	20,00,000	10	19,45,205	4,86,301	24,31,507
35	Kerala state Salycilate & Chemicals	5. GO(Rt). NO. 771/00/ ID dated 2.9.2002	2002	1,90,000	10	1,82,088	45,522	2,27,610
36	KSCDC	2. GO(Rt) No 134/02/ ID dated 14.03.2002	2002	12,00,00,000	10	12,06,57,534	3,01,64,384	15,08,21,918
37	Astral Watches	1. GO(Ms) No 37/03/ ID dated 24.03.2003	2003	10,00,000	10	9,02,740	2,25,685	11,28,425
38	Autocast Ltd.	1. GO(Ms) No 37/03/ ID dated 24.03.2003	2003	15,00,000	10	13,54,110	3,38,527	16,92,637
39	Chalakkudi Refractories	2. GO(Ms) No 1113/03/ ID dated 22/03/2003	2003	2,06,000	10	1,86,077	46,519	2,32,597
40	Co- Operative Sugars Ltd. Chittur	1. GO(Ms). No. 37/03/ ID dated 24.03.2003	2003	20,00,000	10	18,05,479	4,51,370	22,56,849
41	Keltron Counters	1.GO (Ms) No. 67/03/ ID dated 24.03.2003	2003	30,00,000	10	27,08,219	6,77,055	33,85,274
42	Kerala Garments	1. GO (Ms) No. 37/03/ID dated 24.03.2003	2003	10,00,000	10	9,02,740	2,25,685	11,28,425
43	Kerala Rectifiers Ltd.	GO(Ms) No. 37/03/ID dated 24.03.2003	2003	10,00,000	10	9,02,740	2,25,685	11,28,425
44	Kerala Soaps and Oils Ltd	2. GO(Ms) No 37/03/ ID dated 24.03.2003	2003	25,00,000	10	22,56,849	5,64,212	28,21,062
45	Kerala State Detergents & Chemicals	GO(Ms) No. 37/03/ ID dated 24.03.2003	2003	15,00,000	10	13,54,110	3,38,527	16,92,637
46	Kerala state Salycilate & Chemicals	6. GO(Ms) No. 37/03/ ID dated 24.03.2003	2003	15,00,000	10	13,54,110	3,38,527	16,92,637
47	Metro Politan Engineering Co.	2. GO(Ms) No 37/03/ID dated 24.03.2003	2003	10,00,000	10	9,02,740	2,25,685	11,28,425

Sl No.	Name of loanee	Sanction order No.& date	Year of sanction	Loan Amount (₹)	Rate of interest of contemporary loan	Interest due as on 31/03/2012** (₹)	Penal interest due (@ 2.5%) (₹)	Total (Interest + Penal Interest) (₹)
48	Quilon Co-operative Spinning Mill	1. GO(Ms) No. 37/03/ ID dated 24.3.2003	2003	20,00,000	10	18,05,479	4,51,370	22,56,849
49	Scooters Kerala	3. GO(Ms) NO. 37/03/ ID dated 24.03.2003	2003	10,00,000	10	9,02,740	2,25,685	11,28,425
50	Sitharam Textiles Ltd	1. GO (Rt. 37/03/ ID dated 24.03.2003	2003	10,00,000	10	9,02,740	2,25,685	11,28,425
51	Sitharam Textiles Ltd	2. GO (Ms) No03/2003/ ID dated 04.01.2003	2003	1,00,00,000	10	92,43,836	23,10,959	1,15,54,795
52	Steel Complex Ltd.	2. GO(Ms) No. 37/03/ ID dated 24.03.2003	2003	15,00,000	10	13,54,110	3,38,527	16,92,637
53	Travancore Sugars and Chemicals	GO(Ms) No. 37/03/ ID dated 24.03.2003	2003	10,00,000	10	9,02,740	2,25,685	11,28,425
54	Trivandrum Spinning Mill	GO(Ms) No. 37/03/ID dated 24.03.2003	2003	30,00,000	10	27,08,219	6,77,055	33,85,274
55	KSCDC	3. GO(Rt) No 6783/04 ID dated 8.10.2004	2004	20,50,00,000	12.5	19,17,31,164	3,83,46,233	23,00,77,397
56	Steel Complex Ltd.	3. GO(Rt) No. 1121/ 07/ ID dated 24.08.2004	2004	5,87,00,000	12.5	5,58,05,205	1,11,61,041	6,69,66,247
57	Co- Operative sugars Ltd. Chittur	2. GO(Rt). No. 525/05/ ID dated 26.05.2005	2005	7,37,00,000	11.5	5,80,74,590	1,26,24,911	7,06,99,501
58	KSTC	1. GO(Rt) No. 225/ 05/ ID dated 14.03.2005	2005	6,58,000	12.5	5,80,032	1,16,006	6,96,038
59	KAICO	3.GO(Rt.) No. 1318/05/AD dtd 05.09.05	2005	1,50,00,000	15.5	1,52,81,301	24,64,726	1,77,46,027
60	KSDP	GO(Rt) No 1271/06/ ID dated 10.11.2006	2006	3,00,00,000	11.5	1,86,01,644	40,43,836	2,26,45,479
61	Sitharam Textiles Ltd	3. GO(Ms) No. 382/06 / ID dated 31.03.2006	2006	75,00,000	11.5	51,79,726	11,26,027	63,05,753
62	CAPEX	4. GO(Rt) No 977/07/ ID dated 21.07.2007	2007	9,00,00,000	11.5	4,86,30,822	1,05,71,918	5,92,02,740
63	KSBC	2. GO(Rt) No 1116/07 ID dated 23.08.2007	2007	93,00,000	11.5	49,28,490	10,71,411	59,99,901
64	KSCDC	4. GO(Rt) No 978/08/ ID dated 21.07.2007	2007	16,00,00,000	11.5	8,25,73,151	1,79,50,685	10,05,23,836

Sl No.	Name of loanee	Sanction order No.& date	Year of sanction	Loan Amount (₹)	Rate of interest of contemporary loan	Interest due as on 31/03/2012** (₹)	Penal interest due (@ 2.5%) (₹)	Total (Interest + Penal Interest) (₹)
65	OUETCOS	GO(Rt) No 422/07/ ID dated 28.03.2007	2007	33,90,000	11.5	19,54,590	4,24,911	23,79,501
66	Sitharam Textiles Ltd	4. Go (Rt) No 1498/ ID Dated 23.11.2007	2007	50,00,000	11.5	25,04,795	5,44,521	30,49,315
67	Sitharam Textiles Ltd	5. GO (Ms) No. 1022/07 dated 29.12.2007	2007	75,00,000	11.5	36,72,123	7,98,288	44,70,411
68	Steel Complex Ltd.	4. GO(Rt) No. 34/07/ ID dated 16.03.2007	2007	2,00,00,000	11.5	1,16,07,123	25,23,288	1,41,30,411
69	KAICO	4GO(Rt.) No. 511/07/AD dtd 28.03.07	2007	80,00,000	14.5	58,15,890	1,00,2,740	68,18,630
70	Autocast Ltd.	2. GO(Rt) No. 170 /08/ ID dated 21.02.2008	2008	29,000	11.5	13,705	2,979	16,685
71	Co- Operative sugars Ltd. Chittur	3. GO(Rt) No. 278/08/ ID dated 19.03.2008	2008	1,69,95,000	11.5	78,87,310	17,14,633	96,01,942
72	Keltron Counters	2.GO(Rt) No. 87/08/ ID dated 27.6.2008	2008	1,45,00,000	11.5	62,72,541	13,63,596	76,36,137
73	Kerala Garments	2. GO (Rt) No. 278/08/ID dated 19.03.2008	2008	39,37,000	11.5	18,27,146	3,97,206	22,24,351
74	Kerala State Drugs and Pharma	GO(Rt) No 278/08/ ID dated 19.03.2008	2008	81,88,000	11.5	38,00,017	8,26,091	46,26,108
75	Kerala state Salycilate & Chemicals	7. GO(RT). No. 340/08/ID dated 31.03.2008	2008	1,14,96,000	11.5	52,91,782	11,50,387	64,42,169
76	KSCDC	5. GO(Rt) No 1153/08/ ID dated 06.10.2008	2008	13,22,000	11.5	5,29,814	1,15,177	6,44,991
77	Travancore Plywood Industries Ltd	1. GO(Rt) No. 278/08/ ID dated 19.03.2008	2008	1,29,77,000	11.5	60,22,572	13,09,255	73,31,827
78	Travancore Titanium Products	GO(Rt) No 690/08/ ID dated 04.07.2008	2008	3,00,00,000	11.5	1,29,11,507	28,06,849	1,57,18,356
79	Chalakkudi Refractories	3. GO(Rt) No 600/09/ ID dated 27.05.2009	2009	30,00,000	11.5	9,82,068	2,13,493	11,95,562
80	Handicrafts Development Corporation	2.GO(Rt) No1022/09 ID dated 04.08.2009	2009	97,00,000	11.5	29,64,479	6,44,452	36,08,932
81	Kerala Automobiles Ltd.	GO(Rt) No. 66/09/ ID dated 09.06.2009	2009	150,00,000	11.5	48,48,904	10,54,110	59,03,014

Sl No.	Name of loanee	Sanction order No.& date	Year of sanction	Loan Amount (₹)	Rate of interest of contemporary loan	Interest due as on 31/03/2012** (₹)	Penal interest due (@ 2.5%) (₹)	Total (Interest + Penal Interest) (₹)
82	Kerala Ceramics Ltd.	2. GO(Rt) No 974/2009/ ID dated 25.07.2009	2009	92,35,000	11.5	28,51,464	619,884	34,71,348
83	Kerals State Detergents & Chemicals	1. GO(Rt) NO. 422/09/ ID dated 28.03.2009	2009	5,13,23,000	11.5	1,77,71,116	38,63,286	2,16,34,402
84	KSCDC	6. GO(Rt) No 375/09/ ID dated 24.03.2009	2009	12,78,000	11.5	4,44,131	96,550	5,40,682
85	KSIDC	GO(Rt) No. 1152/09/ID dated 29.08.2009	2009	5,18,00,000	11.5	1,54,22,918	33,52,808	1,87,75,726
86	KSTC	2.GO(Rt) No. 529/ 09/ID dated 05.05.2009	2009	115,69,000	11.5	38,67,374	8,40,733	47,08,108
87	Quilon Co-operative Spinning Mill	2. GO(Rt) No. 884/09/ ID dated 09.07.2009	2009	85,00,000	11.5	26,67,370	5,79,863	32,47,233
88	Sitharam Textiles Ltd	6. GO (Ms) No. 144/09 / ID dated 2.02.2009	2009	46,06,000	11.5	16,73,240	3,63,748	20,36,988
89	Steel and Industrial forgings Ltd.	1. GO(Rt) No. 1211/09/ ID dated 16.09.2009	2009	3,00,00,000	11.5	87,62,055	19,04,795	1,06,66,849
90	Steel and Industrial forgings Ltd.	2. GO(Rt) No. 1517/09/ ID dated 1.12.2009	2009	1,31,78,000	11.5	35,33,329	7,68,115	43,01,444
91	Travancore Plywood Industries Ltd	2. GO(Rt) No. 550/ 09/ ID dated 8.5.2009	2009	53,94,000	11.5	17,98,049	3,90,880	21,88,930
92	Autocast Ltd.	3. GO (Ms) No. 394/10/ ID dated 24.03.2010	2010	1,84,21,000	11.5	42,83,261	9,31,144	52,14,405
93	Kerala Ceramics Ltd.	3. GO(Rt) No 394/10/ ID dated 24.03.2010	2010	95,00,000	11.5	22,08,945	4,80,205	26,89,151
94	Kerals State Detergents & Chemicals	2. GO(Rt) No. 394/10/ Id dated 24.03.2010	2010	62,37,000	11.5	21,67,486	4,71,193	26,38,678
95	KSCDC	7. GO(Ms) No 05/10/ ID dated 06.01.2010	2010	73,08,000	11.5	18,76,554	4,07,947	22,84,501
96	KSTC	3. GO9 Rt) No. 382/ 10/ID dated 23.3.2010	2010	8,00,00,000	11.5	1,86,26,849	40,49,315	2,26,76,164
97	KSTC	4. GO(Rt) No 313/10/ID dated 16.03.2010	2010	5,00,00,000	11.5	1,17,52,055	25,54,795	1,43,06,849
98	Kunnathara Textiles	GO(Rt) No. 1597/07 / ID dated 16.03.2010	2010	500,00,000	11.5	1,17,52,055	25,54,795	1,43,06,849

Sl No.	Name of loanee	Sanction order No.& date	Year of sanction	Loan Amount (₹)	Rate of interest of contemporary loan	Interest due as on 31/03/2012** (₹)	Penal interest due (@ 2.5%) (₹)	Total (Interest + Penal Interest) (₹)
99	Metro Politan Engineering Co.	3. GO(Rt) No 394/10/ ID dated 24.03.2010	2010	1,04,000	11.5	24,182	5,257	29,439
100	Traco Cable Company	GO(Rt) No 394/10/ ID dated 24.03.2010	2010	3,96,00,000	11.5	92,07,814	20,01,699	1,12,09,512
101	KAICO	5.GO(Rt.) No. 640/10/AD dtd 31.03.10	2010	2,15,00,000	14.5	62,43,541	10,76,473	73,20,014
Total						1,56,40,69,871	33,15,13,030	1,89,55,82,901

** [(Loan amount * rate of int.)/ 365] * No. of days from date of G.O to 31/3/12