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

for the year ended 31 March 2012

Government of Madhya Pradesh

Report No. 1 of the year 2013

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PREFACE

This Report of the Comptroller and Auditor General of India has been prepared for submission to the Governor under Article 151 of the Constitution for being laid before the State Legislature.

The report 2011-12, contains significant results of the compliance and performance audit of the Departments of the Government of Madhya Pradesh under the Revenue Sector.

The cases mentioned in this report are among those which came to notice in the course of test audit (2011-12) of accounts for the period 2011-12 as well as those which had come to notice in earlier years but could not be reported in previous Audit Reports; matters relating to the period subsequent to 2011-12 have also been included wherever necessary.

Audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India, based on the auditing standards of the International Organisation of Supreme Audit Institutions.

OVERVIEW

This Report contains 50 paragraphs including two Performance Audits relating to non/short levy of tax, interest, penalty, etc. involving ₹ 247.82 crore. The Departments/Government have accepted audit observations involving ₹ 115.54 crore out of which ₹ 34.05 lakh has been recovered. Some of the major findings are mentioned below:

I. General

The total receipts of the State Government for the year amounted to ₹ 62,604.08 crore against ₹ 51,854.18 crore for the previous year. Fifty five *per cent* of this was raised by the State through tax revenue (₹ 26,973.44 crore) and non-tax revenue (₹ 7,482.73 crore). The balance 45 *per cent* was received from the Government of India as State's share of divisible union taxes (₹ 18,219.14 crore) and grants-in-aid (₹ 9,928.77 crore).

(Paragraph 1.1.1)

Test check of records of Commercial Tax, State Excise, Taxes on Vehicles, Stamps and Registration Fees, Land Revenue, Entertainment Duty, Taxes and duty on Electricity and Mining receipts conducted during the year 2011-12 revealed under-assessment/short levy/loss of revenue amounting to ₹ 807.47 crore in 6,54,887 cases.

(Paragraph 1.10.1)

II. Commercial Tax

A Performance Audit on **"Recovery of revenue arrears in Commercial Tax Department"** revealed that:

The arrears of ₹ 288.46 crore (54.44 *per cent* of the arrears outstanding as on 1 April 2011) in respect of 1,70,881 cases were pending for recovery for more than five years.

(Paragraph 2.10.6.3)

Absence of a separate recovery machinery led to mounting arrears and abnormal delays in initiating action for recovery.

(Paragraph 2.10.7)

There was delay in initiating recovery proceedings up to four years and six months in 38 cases involving arrears of tax of ₹ 2.86 crore.

(Paragraph 2.10.9)

Delay in issuing the RRCs outside the State and inadequate action taken by the Department resulted in non-realisation of dues of ₹ 28.44 crore in 31 cases.

(Paragraph 2.10.11)

Inaction in lodging/pursuing cases pending with the Official Liquidator (OL) resulted in non-realisation of dues of ₹ 1.50 crore in three cases.

(Paragraph 2.10.12)

The Department did not take action to attach property in six cases which resulted in non-realisation of dues of ₹ 62.12 lakh.

(Paragraph 2.10.13)

Abnormal delay in auctioning the attached properties resulted in non-realisation of dues of ₹ 7.11 crore in case of 12 dealers.

(Paragraph 2.10.14)

The Department did not take follow up action of submission of Modified Debt Rehabilitation Scheme (MDRS) in respect of the cases pending with BIFR involving recovery of dues amounting to ₹ 3.29 crore.

(Paragraph 2.10.15)

Tax of ₹ 3.67 crore was short realised from 50 dealers due to application of incorrect rate of tax in 50 cases in 31 offices.

(Paragraph 2.11)

There was non levy of tax of ₹ 2.82 crore including interest/penalty of ₹ 3.73 lakh due to incorrect determination of turnover in 44 cases of 43 dealers in 31 offices.

(Paragraph 2.12)

Tax of ₹ 87.18 lakh was short realised from 15 dealers in 15 cases due to irregular allowance of input tax rebate in 15 offices.

(Paragraph 2.13)

There was non/short levy of entry tax of ₹ 2.04 crore including interest and penalty of ₹ 79 lakh against 60 dealers in 67 cases in 37 offices.

(Paragraph 2.14)

There was non levy of tax of ₹ 19.96 lakh on sales of taxable commodities as they were incorrectly treated as tax free in three cases of three dealers in three offices.

(Paragraph 2.18)

III. State Excise

A Performance Audit on **"Collection of Excise receipts on liquor"** revealed that:

Penalty of ₹ 6.86 lakh was not imposed on short production of alcohol from molasses.

(Paragraph 3.5.9.3)

Spirit/Foreign liquor involving excise duty of ₹ 875.38 crore remained unsecured as irregular export/transport was allowed by the Department

without obtaining Bank Guarantee/Bond with solvent securities. Excise duty of ₹ 20.25 crore on unacknowledged liquor was also not recovered.

(Paragraph 3.5.14)

Minimum penalty of ₹ 9.90 crore was not imposed and recovered from the licensees on wastage in excess of the admissible limit during export/transport of liquor.

(Paragraph 3.5.16)

The labels of bottled country liquor were not got registered by the licensees, on which registration fee of ₹ 32.40 lakh was not realised. Manufacture of liquor without registration of labels was also irregular.

(Paragraph 3.5.20)

Liquor was issued to 143 licensees despite the fact that the licensees of liquor shops had not deposited the fortnightly licence fee/last installment of annual license fee of ₹ 1.20 crore within the prescribed time.

(Paragraph 3.5.21)

Excise Duty of ₹ 2.08 crore was short levied on issue of foreign liquor from Military canteen wholesale licensees to Military canteen retail licensees.

(Paragraph 3.5.22)

IV. Taxes on Vehicles

Tax and penalty of ₹ 7.16 crore was not realised in respect of 1,652 vehicles in 17 offices.

(Paragraph 4.7)

There was non/short realisation of trade fees of ₹ 1.82 crore from the dealers in six offices.

(Paragraph 4.9)

V. Land Revenue

The underassessment of premium and ground rent of Government land allotted to Gwalior Development Authority in May 2010 resulted in short levy/realisation of revenue of ₹ 7.79 crore.

(Paragraph 5.6)

Land revenue and *upkar* of ₹ 2.43 crore collected by 15 Tahsil offices between October 2006 and September 2011 was deposited in *Panchayat Nidhi* rather than in the treasury under Major Head '0029' Land Revenue.

(Paragraph 5.7)

The Government land measuring 0.420 hectare of village

The under assessment of diversion rent and premium in 18 cases of diversion decided between February 2007 and September 2011 in Collectorates resulted in short realisation of premium and diversion rent of ₹ 21.12 lakh.

(Paragraph 5.12)

VI. Stamps and Registration Fees

Incorrect determination of market va

CHAPTER - I

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter, we present the trend of Revenue Receipts of the State Government, variations between budget estimates and actual receipts, response of the Government towards audit, position of the Departmental audit committee meetings, position of compliance made by the Government/Departments to deal with issues raised by Audit, position of outstanding paragraphs in Inspection Reports and results of audit conducted during the year 2011-12.
Trend of revenue receipts of the State Government	The revenue receipts of the Government of Madhya Pradesh comprises of tax and non-tax revenue raised by the State Government, the State's share of net proceeds of divisible Union taxes and duties assigned to State and Grants-in-aid received from the Government of India. During the year 2011-12, the revenue raised by the State Government was ₹ 34,456.17 crore which was 55 *per cent* of the total receipts. The balance 45 *per cent* of receipts amounting to ₹ 28,147.91 crore during 2011-12 were from the Government of India.
Non-compliance of observations included in the Inspection Reports (IRs)	Inspection Reports issued up to December 2011 disclosed that 13,506 paragraphs relating to 3,465 IRs involving ₹ 6,834.02 crore remained outstanding at the end of June 2012 for want of compliance. The first replies required to be received from the Heads of offices within one month from the date of issue of the IRs were not received (30 June 2012) for 363 IRs issued up to December 2011. This pendency of the IRs due to non-receipt of the replies is indicative of the fact that the Heads of Offices and Heads of Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the Accountant General in the IRs.
Non-production of records to audit	71 offices of six Departments (Commercial Tax, Registration and Stamps, Revenue, Mines and Geology, Transport and State Excise) did not furnish 625 tax assessment records during 2011-12.

Very low recovery of the amount pointed out by audit in earlier Audit Reports	In respect of Audit Reports pertaining to the years 2006-07 to 2010-11, the Government/ Departments accepted audit observations involving money value of ₹ 1,985.80 crore, of which ₹ 203.89 crore had been recovered till March 2012.
Departmental Audit Committee Meetings (ACMs)	We noticed that during 2011-12, five Departments had convened seven Audit Committee Meetings (ACMs) wherein 553 paragraphs involving money value of ₹ 288.94 crore were settled, while other Departments did not take any initiative to hold ACMs. It is recommended that the Government may ensure convening of periodical ACMs by all the Departments for effective and expeditious settlement of outstanding paragraphs.
Our Conclusion	Audit observations involving financial effect of ₹ 807.47 crore were issued during the period 2011-12. The Departments/Government accepted observations involving ₹ 539.35 crore. It is recommended that the Government may make efforts to recover the amounts involved in the accepted cases at the earliest. The amount outstanding as arrears of revenue for more than five years was 71 *per cent* of the total outstanding amount. The State Government may make efforts to ensure the recovery of the outstanding amount at the earliest. The Government may take suitable steps to introduce an effective procedure for prompt and appropriate response to audit observations as well as taking action against the officials for failure to send the replies to the IRs/paragraphs as per the prescribed time schedule and also for not taking action to recover loss/outstanding revenue in a time bound manner.

CHAPTER - I
GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Madhya Pradesh 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	12,017.64	13,613.50	17,272.77	21,419.33	26,973.44
	• Non-tax revenue	2,738.18	3,342.86	6,382.04	5,719.77	7,482.73
	Total	**14,755.82**	**16,956.36**	**23,654.81**	**27,139.10**	**34,456.17**
2.	**Receipts from the Government of India**					
	• Share of net proceeds of divisible Union taxes and duties	10,203.50	10,767.14	11,076.99	15,638.52	18,219.14[1]
	• Grants-in-aid	5,729.41	5,853.71	6,662.87	9,076.56	9,928.77
	Total	**15,932.91**	**16,620.85**	**17,739.86**	**24,715.08**	**28,147.91**
3.	**Total receipts of the State (1 and 2)**	**30,688.73**	**33,577.21**	**41,394.67**	**51,854.18**	**62,604.08**
4.	**Percentage of 1 to 3**	**48**	**50**	**57**	**52**	**55**

The above table indicates that during the year 2011-12, the revenue raised by the State Government was 55 *per cent* of the total receipts (₹ 62,604.08 crore) against 52 *per cent* in the preceding year. The balance 45 *per cent* of receipts during 2011-12 was from the Government of India.

[1] For details please see statement No. 11: "Detailed accounts of revenue by minor heads" in the Finance Accounts of the Government of Madhya Pradesh for the year 2011-12. Figures under the head "Share of net proceeds assigned to States" booked in the Finance Accounts under A-Tax revenue have been excluded from the revenue raised by the State and included in 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 from 2007-08 to 2011-12:

(₹ in crore)

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
1.	Taxes on sales, trade etc.	6,045.07	6,842. 99	7,723.82	10,256.76	12,516.73	(+) 22.03
2.	State excise	1,853.83	2,301. 95	2,951.94	3,603.42	4,316.49	(+) 19.79
3.	Stamps and Registration fees	1,531.54	1,479.29	1,783.15	2,514.27	3,284.41	(+) 30.63
4.	Taxes on goods and passengers	916.44	1,332. 57	1,332.88	1,746.20	2,047.46	(+) 17.25
5.	Taxes on vehicles	702.62	772. 56	919.01	1,198.38	1,357.12	(+) 13.25
6.	Taxes and duties on electricity	626.08	343. 06	2,146.49	1,476.32	1,773.32	(+) 20.12
7.	Land revenue	129.15	338. 84	180.03	360.81	279.06	(-) 22.66
8.	Other taxes on income and expenditure - taxes on professions, trades, callings and employments	185.02	172. 29	203.92	217.89	248.90	(+) 14.23
9.	Other taxes and duties on commodities and services	20.10	20. 28	19.21	29.42	52.29	(+) 77.74
10.	Hotel receipts	7.79	9. 67	12.20	15.85	18.33	(+) 15.65
11.	Taxes on immovable property other than agricultural land	-	-	0.12	0.01	1,079.33	(+) 1,07,93,200
Total		**12,017.64**	**13,613. 50**	**17,272.77**	**21,419.33**	**26,973.44**	

(Source: Finance Accounts of the Government of Madhya Pradesh)

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

Taxes on sales, trade etc.- The increase of 22.03 *per cent* was due to better tax compliance.

State excise - The increase of 19.79 *per cent* was attributed to the increase in execution amount realised through auction of liquor shops.

Stamps and Registration fees - The increase of 30.63 *per cent* was due to registration of more documents and rise in the market value of immovable properties.

Taxes on vehicles – The increase of 13.25 *per cent* was due to effective computerisation.

Taxes and duties on electricity - The increase of 20.12 *per cent* was attributed to the receipt of arrears pending with MP *Vidyut Vitaran* Companies.

Land Revenue – The decrease of 22.66 *per cent* was due to postponement of recovery of dues in order to provide relief to farmers affected by natural calamities.

The other Departments did not inform the reasons for variation (March 2013), despite being requested (May 2012).

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

(₹ in crore)

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
1.	Non-ferrous mining and metallurgical industries	1,125.39	1,361.08	1,590.47	2,121.49	2,038.31	(-) 3.92
2.	Forestry and wildlife	608.89	685.60	802.00	836.61	878.81	(+) 5.04
3.	Miscellaneous general services	374.60	380.17	399.12	143.00	145.44	(+) 1.71
4.	Interest receipts	206.98	163. 29	1,284.03	298.56	1,571.41	(+) 426.33
5.	Other administrative services	68.15	55.58	80.94	85.14	106.05	(+) 24.56
6.	Major and medium irrigation	37.42	37.08	56.75	194.89	263.15	(+) 35.02
7.	Police	25.03	23.63	41.98	62.55	63.19	(+) 1.02
8.	Public works	20.33	21.74	27.37	36.77	47.92	(+) 30.32
9.	Medical and public health	21.93	20.88	21.84	22.77	30.16	(+) 32.45
10.	Co-operation	29.29	13.25	9.08	17.05	11.65	(-) 31.67
11.	Other non-tax receipts	220.17	580.56	2,068.46	1,900.94	2,326.64	(+) 22.39
Total		**2,738.18**	**3,342.86**	**6,382.04**	**5,719.77**	**7,482.73**	

(Source: Finance Accounts of the Government of Madhya Pradesh)

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

Forestry and Wildlife - The increase of 5.04 *per cent* was basically due to the increase of the value of forest produce.

Co-operation – The decrease of 31.67 *per cent* was due to shortfall in recovery of audit fees**.**

The other Departments did not inform the reasons for variation (March 2013), despite being requested (May 2012).

1.2 Variations between the budget estimates and actual receipts

The variations between the budget estimates and actual receipts for the year 2011-12 in respect of the principal heads of tax and non-tax revenue are mentioned below:

(₹ in crore)

Sl. No.	Head of revenue	Budget estimates	Actual receipts	Variation excess (+) or shortfall (-)	Percentage increase (+)/ decrease (-)
Tax revenue					
1.	Taxes on Sales, Trade etc.	11,830	12,516.73	(+) 686.73	(+) 5.80
2.	State Excise	4,050	4,316.49	(+) 266.49	(+) 6.58
3.	Stamps and Registration fees	2,000	3,284.41	(+) 1,284.41	(+) 64.22
4.	Taxes and duties on electricity	1,370	1,773.32	(+) 403.32	(+) 29.44
5.	Taxes on vehicles	1,285	1,357.12	(+) 72.12	(+) 5.61
6.	Land Revenue	500.30	279.06	(-) 221.24	(-) 44.22
Non-tax revenue					
1.	Non-ferrous mining and metallurgical industries	2,540	2,038.31	(-) 501.69	(-) 19.75

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

Stamps and Registration fees - The increase of 64.22 *per cent* was mainly due to registration of more documents and rise in the market value of immovable properties.

Land Revenue - The decrease of 44.22 *per cent* was due to postponement of recovery of dues in order to provide relief to farmers affected by natural calamities.

1.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 in respect of some principal heads of revenue amounted to ₹ 669.97 crore of which ₹ 475.68 crore was outstanding for more than five years as mentioned in the following table:

(₹ in crore)

Sl. No.	Head of revenue	Amount outstanding as on 31 March 2012	Amount outstanding for more than five years as on 31 March 2012
(1)	(2)	(3)	(4)
1.	Taxes on Sales, Trade etc.	517.93	403.87
2.	Non-ferrous mining and metallurgical industries	12.31	12.31

(1)	(2)	(3)	(4)
3.	Taxes and Duties on Electricity	67.49	14.69
4.	Stamps and Registration Fees	72.24	44.81
Total		**669.97**	**475.68**

The position of arrears of revenue at the end of 2011-12 in respect of other Departments was not furnished by the Government despite being requested (December 2012). Also, the reasons for which arrears were pending for collection were not furnished by the Departments (March 2013).

1.4 Arrears in assessment

The details of assessments relating to Sales tax/VAT, Profession tax, Entry tax, Luxury tax, Tax on works contracts pending at the beginning of the year, additional cases becoming due for assessment during the year, cases disposed during the year and pending cases at the end of each year during 2009-10, 2010-11 and 2011-12 as furnished by the **Commercial Tax Department** are mentioned in the following table:

Name of tax	Year	Opening balance	New cases due for assessment during the year	Total assess-ments due	Cases disposed during the year	Balance at the end of the year	Percent-age of column 6 to 5
1	2	3	4	5	6	7	8
Sales tax/ VAT	2009-10	2,67,035	3,53,048	6,20,083	3,72,161	2,47,922	60.02
	2010-11	2,47,922	2,53,990	5,01,912	3,74,824	1,27,088	74.68
	2011-12	1,24,088[2]	2,94,265	4,18,353	3,30,229	88,124	78.94
Profession tax	2009-10	1,24,375	1,40,241	2,64,616	1,57,938	1,06,678	59.69
	2010-11	1,06,678	88,196	1,94,874	1,27,626	67,248	65.49
	2011-12	67,248	1,19,154	1,86,402	1,22,991	63,411	65.98
Entry tax	2009-10	1,70,356	2,29,913	4,00,269	2,48,537	1,51,732	62.09
	2010-11	1,51,732	2,00,164	3,51,896	2,62,535	89,361	74.61
	2011-12	89,361	2,27,878	3,17,239	2,55,173	62,066	80.44
Luxury tax	2009-10	664	1,026	1,690	1,052	638	62.25
	2010-11	638	3,619	4,257	3,234	1,023	75.97
	2011-12	1,023	308	1,331	911	420	68.44
Tax on works contracts	2009-10	2,541	6,273	8,814	6,183	2,631	70.15
	2010-11	2,631	6,704	9,335	6,593	2,742	70.63
	2011-12	2,742	5,328	8,070	5,450	2,620	67.53

Thus, there has been decrease in disposal of assessment cases relating to luxury tax and tax on works contracts during 2011-12 as compared to the previous year.

[2] The Department stated (October 2012) that opening balance of the arrears in assessment for the year 2011-12 was 1,24,088. However, this did not match with the closing balance of arrears in assessment (1,27,088) for the year 2010-11 reported on an earlier occasion. The Department did not furnish any reason for this difference.

1.5 Evasion of tax

The details of evasion as reported by the Commercial Tax and Registration and Stamps Departments are mentioned below:

Sl. No.	Name of the tax/duty	Cases pending as on 31 March 2011	Cases detected during 2011-12	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc. raised		No. of pending cases as on 31 March 2012
					No. of cases	Amount of demand (₹ in crore)	
1.	Sales Tax/ VAT	536	249	785	551	212.65	234
2.	Stamp duty and Registration Fees	8,485	5,953	14,438	4,419	71.13	10,019

Thus, there was increase in the number of pending cases relating to Stamp duty and Registration fees.

1.6 Refunds

The number of refund cases pending at the beginning of the year 2011-12, claims received during the year, refunds allowed during the year and cases pending at the end of the year 2011-12 as reported by the Departments are mentioned below:

(₹ in crore)

Sl. No.	Category	Sales Tax/VAT		Taxes and duties on electricity		Stamps and Registration Fees		State Excise	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	674	10.10	109	1.13	1,507	3.80	10	0.07
2.	Claims received during the year	5,331	86.57	25	2.82	831	3.22	55	1.16
3.	Refunds made during the year	5,457	87.93	05	1.26	792	2.19	43	0.95
4.	Balance outstanding at the end of the year	548	8.74	129	2.69	1,546	4.83	22	0.28

Thus, there was an increase in the number and amount of refund cases at the end of the year in all Departments except Commercial Tax Department.

1.7 Response of the Departments/Government towards audit

The succeeding paragraphs 1.7.1 to 1.7.5 discuss the response of the Departments/Government towards audit observations/recommendations.

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

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

We reviewed inspection reports issued up to December 2011 and found that 13,506 paragraphs involving ₹ 6,834.02 crore relating to 3,465 IRs remained outstanding at the end of June 2012 as mentioned in the following table along with the corresponding figures for the preceding two years:

	June 2010	June 2011	June 2012
Number of outstanding IRs	**5,040**	**3,690**	**3,465**
Number of outstanding audit observations	**15,608**	**13,285**	**13,506**
Amount involved (₹ in crore)	**9,862.06**	**9,355.55**	**6,834.02**

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2012 and the amounts involved are mentioned in the following table:

(₹ in crore)

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
(1)	(2)	(3)	(4)	(5)	(6)
1.	Commercial Tax	Taxes/VAT on sales, trade *etc.*	933	4,589	1,016.70
2.	Energy	Taxes and duties on electricity	48	171	460.99
3.	State excise	Entertainment tax	200	392	19.41
		State excise	211	826	625.80
4.	Revenue	Land revenue	1,036	3,292	2,586.02

(1)	(2)	(3)	(4)	(5)	(6)
5	Transport	Taxes on vehicles	382	1,948	326.61
6	Registration and Stamps	Stamps and Registration fees	448	1,273	181.21
7	Mines and Geology	Non-ferrous mining and metallurgical industries	207	1,015	1,617.28
Total			**3,465**	**13,506**	**6,834.02**

Even the first replies required to be received from the heads of offices within one month from the date of issue of the IRs were not received for 363 IRs issued up to December 2011. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and heads of the Departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs. Although this was pointed out in the earlier report for the year ended 31 March 2011, no corrective measures were taken in this regard.

It is recommended that the Government take suitable steps to establish an effective procedure for prompt and appropriate response to audit observations as well as taking action against officials/officers who do not send replies to the IRs/paragraphs as per the prescribed time schedules and also fail to take action to recover loss/outstanding demand in a time bound manner.

1.7.2 Departmental audit committee meetings

The Government sets up audit committees to monitor and expedite the progress of the settlement of paragraphs in the Inspection Reports. The details of the audit committee meetings held during the year 2011-12 and the paragraphs settled are mentioned in the following table:

(₹ in crore)

Head of revenue	Number of meetings held	Number of paragraphs settled	Amount
Commercial tax	2	157	6.50
Non-ferrous mining and metallurgical industries	2	124	146.52
Stamps and Registration fees	1	58	2.86
State excise	1	98	62.52
Land revenue	1	116	70.54
Total	**7**	**553**	**288.94**

The table shows that the settlement of outstanding paragraphs relating to Stamps and Registration fees and State Excise has not been satisfactory. This was mainly due to non-production of relevant records by the Departments during the audit committee meetings.

1.7.3 Non-production of records to audit for scrutiny

The programme of local audit of tax/non-tax receipts offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit, to the Department to enable them to keep the relevant records ready for audit scrutiny.

During 2011-12, as many as 625 assessment files, registers and other relevant records relating to 71 offices were not made available to audit. In two cases, the tax involved was ₹ 4.87 crore and in the remaining cases the tax effect could not be computed. Year-wise break up of such cases are given below:

(₹ in crore)

Name of Department/ No. of offices	Nature of receipts	Number of assessment cases not audited	Number of cases in which revenue involved could be ascertained	Revenue involved
Commercial Tax/ 30	Sales tax/VAT	360	--	--
Registration and Stamps/ 7	Stamps and Registration fees	64	1	0.30
Revenue/ 19	Land revenue	136	1	4.57
Mines and Geology / 3	Non-ferrous mining and metallurgical industries	5	--	--
Transport/ 8	Taxes on vehicles	49	--	--
State Excise/ 1	Entertainment Tax	4	--	--
State Excise/ 3	State Excise	7	--	--
Total		**625**	**2**	**4.87**

1.7.4 Response of the Departments to the draft audit paragraphs

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

53 paragraphs (clubbed into 50 paragraphs) included in this Report were sent to the Principal Secretaries/Secretaries of the concerned Departments between May 2012 and September 2012. Their replies have not been received (March 2013).

The paragraphs pertaining to these Departments have been included in this Report without the response of the Departments.

1.7.5 Follow up on Audit Reports-summarised position

As per the instructions issued (November 1994) by the State Legislative Affairs Department, Action Taken Reports (ATR) on the recommendations of the Public Accounts Committee (PAC) should be submitted within six months from the date of recommendations by the PAC.

The Audit Report for the year 2007-08 has been fully discussed and that for the year 2006-07 and 2008-09 has been partly discussed by the PAC.

ATRs on the PAC recommendations up to 1992-93 have been received. ATRs from 1993-94 to 2003-04 have been partly received and thereafter ATRs have not been received from the concerned Departments.

1.7.6 Compliance with the earlier Audit Reports

During the period from 2006-07 to 2010-11, the Departments/Government accepted audit observations involving ₹ 1,985.80 crore of which only ₹ 203.89 crore was recovered till 31 March 2012 as mentioned below:

(₹ in crore)

Year of the Audit Report	Total money value of the Report	Accepted money value	Amount recovered	Percentage of recovery to amount accepted
2006-07	318.57	288.61	7.44	2.58
2007-08	623.43	428.03	78.52	18.34
2008-09	1,339.50	112.89	9.96	8.82
2009-10	1,469.91	1,045.98	105.98	10.13
2010-11	291.79	110.29	1.99	1.80
Total	**4,043.20**	**1,985.80**	**203.89**	

The percentage of recovery as compared to the accepted cases has been extremely low over the last five years.

We recommend that the Government should take appropriate steps to improve the recovery position, at least in the accepted cases.

1.8 Analysis of the mechanism for dealing with the issues raised by audit

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

The succeeding paragraphs 1.8.1 to 1.8.2.2 discuss the performance of the **State Excise Department** to deal with the cases detected in the course of local audit conducted during the last six years and also the cases included in the Audit Reports for the years 2001-02 to 2010-11.

1.8.1 Position of Inspection Reports

The summarised position of inspection reports issued during the period 2006-07 to 2011-12, paragraphs included in these reports and their status as on 31 March 2012 are mentioned in the following table:

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para-graphs	Money Value	IRs	Para-graphs	Money Value	IRs	Para-graphs	Money Value	IRs	Para-graphs	Money Value
2006-07	371	1,272	630.05	24	127	65.64	15	116	46.19	380	1,283	649.50
2007-08	380	1,283	649.50	31	173	89.51	23	251	154.55	388	1,205	584.46
2008-09	388	1,205	584.46	43	242	98.48	58	307	184.27	373	1,140	498.67
2009-10	373	1,140	498.67	45	302	181.53	72	348	109.70	346	1,094	570.50
2010-11	346	1,094	570.50	23	168	146.02	165	474	71.35	204	788	645.17
2011-12	204	788	645.17	26	173	85.89	28	178	118.50	202	783	612.56

Out of 178 paragraphs cleared during the year 2011-12, 80 paragraphs were settled in the normal course on the basis of replies and the remaining 98 paragraphs were settled in Audit Committee meetings held with the Department.

1.8.2 Assurance given by the Departments/Government on the issues highlighted in the Audit Report

1.8.2.1 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are shown in the following table:

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted including money value	Money value of accepted paragraphs	No. of paragraphs against which recovery made	Amount recovered up to 31.03.2012
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2001-02	9	6.77	3	0.72	3	0.08
2002-03	7 Paragraphs & 1 Review	54.08	4	13.77	1	1.04
2003-04	3 Paragraphs & 1 Review	13.10	3	12.49	1	0.006
2004-05	9	9.60	4	0.88	2	0.04
2005-06	7	7.67	5	2.62	4	0.55
2006-07	1 Review	4.57	1	1.62	1	0.55
2007-08	11	7.95	5	1.82	3	0.21

(1)	(2)	(3)	(4)	(5)	(6)	(7)
2008-09	18	21.68	8	1.80	3	0.09
2009-10	9	5.09	5	3.90	2	0.07
2010-11	8	38.74	1	6.73	1	0.007

The percentage of recovery as compared to the accepted cases has been extremely low over the last ten years.

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

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

The following paragraphs discuss the issues highlighted in the performance audit on the State Excise Department featured in the last 10 Audit Reports including the recommendations and action taken by the Department on the recommendations accepted by it as well as by the Government.

Year of Audit Report	Name of the Performance Audit	Number of recommendations	Details of the recommend-dations accepted	Status
2002-03	Uncollected Excise Revenue	2	--	Specific comments on recommendations have not been furnished by the Department.
2003-04	Working of Distilleries	2	--	Specific comments on recommendations have not been furnished by the Department
2006-07	Collection of Excise Receipts on Liquor	6	--	Specific comments on recommendations have not been furnished by the Department

1.9 Audit planning

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

During the year 2011-12, the audit universe comprised of 924 auditable units, of which 321 units were audited, which is 36.36 *per cent* of the total auditable units.

Besides the compliance audit mentioned above, two Performance audits on **"Recovery of Revenue arrears in Commercial Tax Department"** and **"Collection of Excise Receipts on Liquor"** were also taken up to examine the efficacy of the tax administration of these receipts.

1.10 Results of audit

1.10.1 Position of local audit conducted during the year

Test check of the records of 321 units of Commercial tax, State excise, Taxes on Vehicles, Land Revenue, Stamps and Registration Fees, Entertainment Duty, Taxes and Duties on Electricity and Mining Receipts conducted during the year 2011-12 revealed underassessment/short levy/loss of revenue aggregating ₹ 807.47 crore in 6,54,887 cases. During the course of the year, the Departments accepted underassessment and other deficiencies of ₹ 539.35 crore involved in 24,385 cases which were pointed out in audit during 2011-12. The Departments collected ₹ 4.58 crore in 1,522 cases during 2011-12.

1.10.2 This Report

This Report contains 50 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years which could not be included in earlier reports) including two performance audits on **"Recovery of Revenue arrears in Commercial Tax Department"** and **"Collection of Excise Receipts on Liquor"** relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of ₹ 247.82 crore. The Departments/ Government have accepted audit observations involving ₹ 115.54 crore out of which ₹ 34.05 lakh has been recovered. The replies in the remaining cases have not been received (March 2013). These are discussed in the succeeding Chapters II to VIII.

CHAPTER - II

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present a Performance Audit on **"Recovery of Revenue Arrears in Commercial Tax Department"** involving revenue implication of ₹ 49.30 crore and a few illustrative cases of ₹ 11.76 crore selected from observations noticed during our test check of records relating to assessment and collection of Commercial Tax in the office of the Commercial Tax Officers (CTOs) and Regional Assistant Commissioners (RACs), where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.
Tax collection	In 2011-12 the collection from Commercial Tax increased by 22.03 *per cent* over the previous year, which was attributed by the Department to better tax compliance.
Very low recovery by the Department of observations pointed out by us in earlier years	During the period from 2006-07 to 2010-11, through our Inspection Reports we had pointed out non/short levy, non/short realisation underassessment/loss of revenue due to incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 858.40 crore in 5,111 cases. Of these, the Department/ Government has accepted audit observations in 2,286 cases involving ₹ 249.60 crore and had since recovered ₹ 4.84 crore in 430 cases. The recovery position as compared to acceptance of objections was very low ranging from 0.74 *per cent* to 6.26 *per cent*.
Results of audit conducted by us in 2011-12	In 2011-12 we test checked the records of 102 units relating to Commercial Tax and found underassessment of tax and other irregularities involving ₹ 128.02 crore in 872 cases. The Department accepted underassessment and other deficiencies of ₹ 5.30 crore in 341 cases, which were pointed out by us during the year 2011-12. An amount of ₹ 1.17 lakh was recovered in three cases during the year 2011-12.
Our conclusion	The Department needs to initiate immediate action to recover non/short levy of entry tax/purchase tax, incorrect grant of exemption, non recovery of tax from closed units, non-realisation of professional tax, non/short levy of penalty, non-levy of tax on transporters, non/short levy of tax on sale without declaration forms etc., pointed out by us, more so in those cases where it has accepted our contention.

CHAPTER - II
COMMERCIAL TAX

2.1 Tax administration

The Principal Secretary, Commercial Tax Department is the administrative head of the Department at the Government level. The Commissioner of Commercial Tax (CCT) is the head of the Department. The Department is divided in five zones, each headed by a Zonal Additional Commissioner. Each zone comprises of divisional offices headed by 15 divisional Deputy Commissioners (DCs). Under these divisions, there are 80 circle offices and 33 Regional assistant commissioner offices headed by the Commercial Tax Officers/Assistant Commissioners (CTOs/ACs). Levy and collection of Commercial Tax which includes Sales Tax/Value Added Tax, Central Sales Tax, Entry Tax, Profession Tax and Luxury Tax is administered under the provisions of the following Acts and Rules and notifications issued thereunder:

- Madhya Pradesh VAT (MPVAT) Act, 2002;
- Madhya Pradesh VAT (MPVAT) Rules, 2006;
- Madhya Pradesh *Vanijyik Kar Adhiniyam* 1994, (No. 5 of 1995);
- Madhya Pradesh Commercial Tax Rules, 1995;
- Central Sales Tax (CST) Act, 1956;
- CST Registration and Turnover (R&T) Rules, 1957;
- Madhya Pradesh Sales Tax (Central) Rules, 1957;
- Madhya Pradesh *Sthaniya Kshetra Me Mal Ke Pravesh Par kar Adhiniyam,* 1976;
- Madhya Pradesh *Sthaniya Kshetra Me Mal Ke Pravesh Par kar Niyam,* 1976;
- Madhya Pradesh Profession Tax Act, 1995;
- Madhya Pradesh Profession Tax Rules, 1995;
- Madhya Pradesh Luxury Tax Act, 1988; and
- Madhya Pradesh Luxury Tax Rules, 1988.

2.2 Trend of receipts

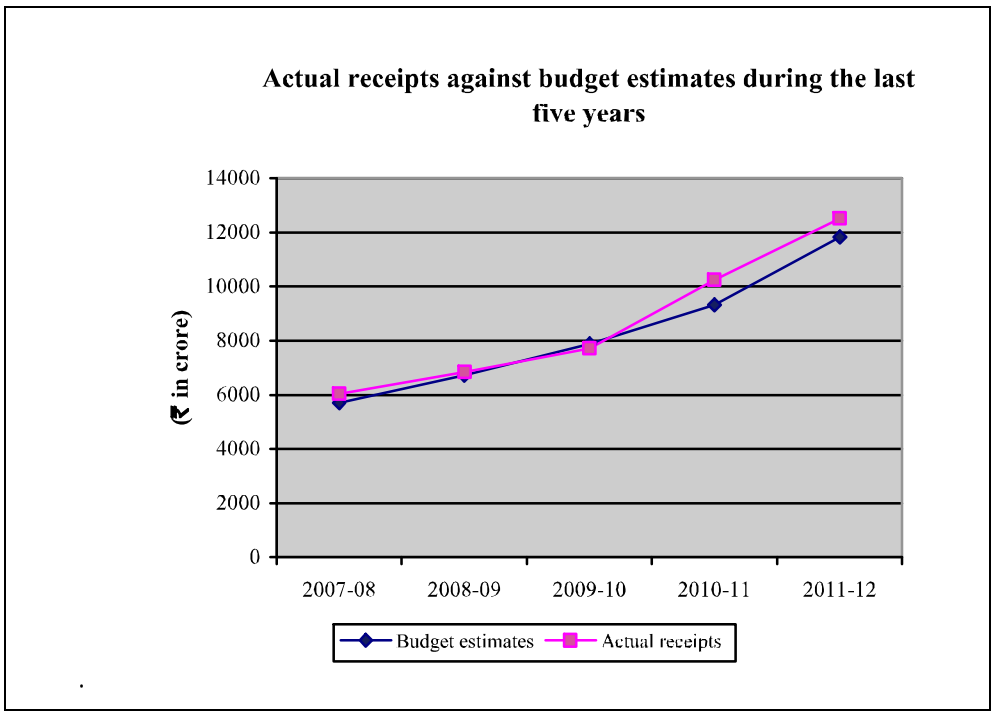
Actual receipts from Taxes on Sales, Trade etc. during the period 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following table and line graph:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT/Taxes on sales, trade receipts vis-a-vis total tax receipts
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2007-08	5,700.00	6,045.07	(+) 345.07	(+) 6.05	12,017.64	50.30
2008-09	6,720.00	6,842.99	(+) 122.99	(+) 1.83	13,613.50	50.27

(1)	(2)	(3)	(4)	(5)	(6)	(7)
2009-10	7,894.11	7,723.82	(-) 170.29	(-) 2.16	17,272.77	44.72
2010-11	9,320.00	10,256.76	(+) 936.76	(+) 10.05	21,419.33	47.89
2011-12	11,830.00	12,516.73	(+) 686.73	(+) 5.80	26,973.44	46.40

(Source: Budget Estimates and Finance Accounts of the Government of Madhya Pradesh)



It may be seen that though there was an increasing trend in actual receipts during the years from 2007-08 to 2011-12, the percentage of variation between the BEs and the actuals ranged between (-) 2.16 *per cent* and 10.05 *per cent.*

In 2011-12, the collection from Taxes on Sales, Trade etc. increased by 22.03 *per cent* over the previous year which was attributed by the Department to better tax compliance.

2.3 Assessee profile

The Department reported that during 2011-12 there were 2,35,848 registered dealers, of which 51,916 were large tax payers and 1,83,932 were small tax payers. All registered dealers having turnover upto ₹ 20 lakh or paying annual tax upto ₹ 10,000 are required to file annual returns whereas other dealers are required to file quarterly returns. In case of dealers who fail to furnish returns, advance tax, etc. notices are issued by the competent officer. The Department further informed that the number of returns received was not maintained at the Headquarters office. Thus, a vital monitoring mechanism was absent in the Department.

2.4 Arrears of Taxes on Sales, Trade etc.

Position of arrears of Taxes on Sales, Trade etc., during the period 2007-08 to 2011-12, as furnished by the Commercial Tax Department, is given in the following table:

(₹ in crore)

Year	Opening balance of arrears	Additions during the year	Collection by the end of the year	Closing Balance
2007-08	584.25	739.77	752.48	571.54
2008-09	571.54	1,086.23	1,111.73	546.04
2009-10	546.04	1,206.32	1,165.41	586.95
2010-11	586.95	1,214.02	1,271.17	529.80
2011-12	529.80	1,667.19	1,679.06	517.93

2.5 Arrears in assessment

The details of assessments relating to Sales Tax/VAT, Profession Tax, Entry Tax, Luxury Tax, Tax on works contracts pending at the beginning of the year, additional cases becoming due for assessment during the year, cases disposed during the year and pending cases at the end of each year during 2009-10, 2010-11 and 2011-12, as furnished by the Commercial Tax Department, are mentioned in the following table:

Name of tax	Year	Opening balance	New cases due for assessment during the year	Total assess-ments due	Cases disposed of during the year	Balance at the end of the year	Percent-age of column 6 to 5
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Sales tax/VAT	2009-10	2, 67,035	3,53,048	6,20,083	3,72,161	2,47,922	60.02
	2010-11	2,47,922	2,53,990	5,01,912	3,74,824	1,27,088	74.68
	2011-12	1,24,088[1]	2,94,265	4,18,353	3,30,229	88, 124	78.94
Profession tax	2009-10	1,24,375	1,40,241	2,64,616	1,57,938	1,06,678	59.69
	2010-11	1,06,678	88,196	1,94,874	1,27,626	67,248	65.49
	2011-12	67,248	1,19,154	1,86,402	1,22,991	63,411	65.98
Entry tax	2009-10	1,70,356	2,29,913	4,00,269	2,48,537	1,51,732	62.09
	2010-11	1,51,732	2,00,164	3,51,896	2,62,535	89,361	74.61
	2011-12	89,361	2,27,878	3,17,239	2,55,173	62,066	80.44
Luxury tax	2009-10	664	1,026	1,690	1,052	638	62.25
	2010-11	638	3,619	4,257	3,234	1,023	75.97
	2011-12	1,023	308	1,331	911	420	68.44

[1] The Department stated (October 2012) that opening balance of the arrears in assessment for the year 2011-12 was 1,24,088. However, this did not match with the closing balance of arrears in assessment (1,27,088) for the year 2010-11 reported on an earlier occasion. The Department did not furnish any reason for this difference.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Tax on works contracts	2009-10	2,541	6,273	8,814	6,183	2,631	70.15
	2010-11	2,631	6,704	9,335	6,593	2,742	70.63
	2011-12	2,742	5,328	8,070	5,450	2,620	67.53

2.6 Cost of collection

The gross collection from Taxes on Sales, Trade etc., expenditure incurred on its collection and the percentage of expenditure to gross collection during the years 2009-10, 2010-11 and 2011-12 along with the relevant all-India average percentage of expenditure on collection for the relevant preceding year are mentioned below:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of expenditure on collection for the previous year
2009-10	7,723.82	89.55	1.16	0.88
2010-11	10,256.76	98.10	0.96	0.96
2011-12	12,516.73	111.36	0.89	0.75

(Source: Finance Accounts of the Government of Madhya Pradesh)

During the years 2009-10 and 2011-12, the percentage of expenditure on collection in respect of taxes on Sales, Trade etc. was higher than the all-India average percentage whereas during 2010-11 it was at par with the all-India average percentage for the previous year.

2.7 Impact of audit

2.7.1 Position of Inspection Reports (IRs)

During the period 2006-07 to 2010-11, through our IRs, we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue due to incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 858.40 crore in 5,111 cases. Of these, the Department/Government had accepted audit observations in 2,286 cases involving ₹ 249.60 crore and had since recovered ₹ 4.84 crore in 430 cases (as on 30 November 2012). The details are shown in the following table:

(₹ in crore)

Year of Audit Report	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2006-07	75	623	66.37	149	15.33	09	0.96	6.26
2007-08	106	1,002	55.99	519	12.12	24	0.48	3.96
2008-09	102	1,234	181.03	497	39.97	15	0.83	2.08
2009-10	90	1,237	365.51	551	122.70	110	2.13	1.74
2010-11	100	1,015	189.50	570	59.48	272	0.44	0.74
Total		**5,111**	**858.40**	**2,286**	**249.60**	**430**	**4.84**	

The percentage of recovery as compared to the accepted cases has been extremely low over the last five years.

2.7.2 Position of Audit Reports

In the Audit Reports 2006-07 to 2010-11, we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue due to incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 337.19 crore in 73 paragraphs. Of these, the Department/Government had accepted audit observations in 54 paragraphs involving ₹ 139.65 crore and had since recovered ₹ 107.34 crore in 28 paragraphs. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Number of paragraphs	Money value	No. of accepted paragraphs	Money value of accepted paragraphs	No. of paragraphs against which recovery made	Amount recovered up to 31.03.12
2006-07	12	21.20	9	16.62	5	0.49
2007-08	16	98.69	14	16.47	10	3.63
2008-09	16	19.48	12	2.29	8	0.81
2009-10	15	112.71	9	102.74	5	102.41
2010-11	14	85.11	10	1.53	Nil	Nil
Total	**73**	**337.19**	**54**	**139.65**	**28**	**107.34**

The percentage of recovery as compared to the accepted cases has been very low during the years 2006-07 to 2010-11, except in 2009-10.

We recommend that the Government should take appropriate steps to improve the recovery position, at least against the accepted cases.

2.8 Working of internal audit wing

In pursuance of the Government orders dated 11 October 1982, 15 posts (five Assistant Commissioners, five Commercial Tax Officers and five Assistant Commercial Tax Officers) were sanctioned for internal audit in the Department. However, due to constant increase in the number of registered dealers and assessment cases, establishment of check posts and deployment of available staff in revenue work, the system of internal audit is not working as far as internal audit of assessments are concerned. During the year 2011-12 internal audit of only the establishment records was done.

2.9 Results of audit

Test check of the records of 102 units relating to Commercial Tax during the year 2011-12 revealed underassessment of tax and other irregularities involving ₹ 128.02 crore in 872 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	**Recovery of revenue arrears in Commercial Tax Department – A Performance Audit**	1	49.30
2.	Non/Short levy of tax	255	19.12
3.	Application of incorrect rate of tax	220	15.83
4.	Incorrect determination of taxable turnover	71	10.28
5.	Incorrect grant of exemption/deduction	126	9.74
6.	Other irregularities	199	23.75
Total		**872**	**128.02**

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 5.30 crore in 341 cases, which were pointed out in audit during the year 2011-12. An amount of ₹ 1.17 lakh was realised in three cases during the year 2011-12. Besides, the Department recovered the entire amount of ₹ 58,009 in one case relating to inter-State sale not supported by declaration form 'C' pointed out through a draft paragraph.

A Performance Audit on **"Recovery of revenue arrears in Commercial Tax Department"** involving revenue implication of ₹ 49.30 crore and a few other illustrative cases with financial impact of ₹ 11.76 crore are mentioned in the following paragraphs.

2.10 Recovery of revenue arrears in Commercial Tax Department

Highlights

- The arrears of ₹ 288.46 crore (54.44 *per cent* of the arrears outstanding as on 1 April 2011) in respect of 1,70,881 cases were pending for recovery for more than five years.

(Paragraph 2.10.6.3)

- Absence of a separate recovery machinery led to mounting arrears and abnormal delays in initiating action for recovery.

(Paragraph 2.10.7)

- There was delay in initiating recovery proceedings up to four years and six months in 38 cases involving arrears of tax of ₹ 2.86 crore.

(Paragraph 2.10.9)

- Delay in issuing the RRCs outside the State and inadequate action taken by the Department resulted in non-realisation of dues of ₹ 28.44 crore in 31 cases.

(Paragraph 2.10.11)

- Inaction in lodging/pursuing cases pending with the Official Liquidator (OL) resulted in non-realisation of dues of ₹ 1.50 crore in three cases.

(Paragraph 2.10.12)

- The Department did not take action to attach property in six cases which resulted in non-realisation of dues of ₹ 62.12 lakh.

(Paragraph 2.10.13)

- Abnormal delay in auctioning the attached properties resulted in non-realisation of dues of ₹ 7.11 crore in case of 12 dealers.

(Paragraph 2.10.14)

- The Department did not take follow up action of submission of Modified Debt Rehabilitation Scheme (MDRS) in respect of the cases pending with BIFR involving recovery of dues amounting to ₹ 3.29 crore.

(Paragraph 2.10.15)

2.10.1 Introduction

Tax/Value Added Tax (VAT) on sales, trade etc. is a major source of revenue of the State and constituted 47.89 *per cent* (₹ 10,256.76 crore) of the total tax revenue (₹ 21,419.33 crore) raised by the State during 2010-11. The Madhya Pradesh *Vanijyik Kar Adhiniyam,* 1994 *(Adhiniyam)* which was in existence up to 31 March 2006 was replaced by The Madhya Pradesh Value Added Tax Act, 2002 (MP VAT Act), with effect from 1 April 2006. The Act and allied Acts as well as rules framed thereunder govern the laws relating to levy and collection of tax on sales/purchase. Every registered dealer liable to pay tax is required to file prescribed periodical returns along with proof of payment of tax due from him.

Under the *Adhiniyam*/MP VAT Act, tax assessed is required to be paid by the assessee in a manner and within the time specified in the notice of demand. Any dealer not satisfied with the demand may prefer an appeal with the Appellate Authorities in the prescribed manner. In case of failure on the part of the assessee to pay the amount within the period specified in the notice of demand, the Department is required to recover the amount which remains unpaid as if it were arrears of land revenue. If the amount of arrears is not paid within the prescribed period mentioned in the demand notice issued after instituting the Revenue Recovery Certificate (RRC), order for attachment of the property of the defaulter is required to be issued. The arrears can be recovered from the sale proceeds obtained after auctioning the attached property.

According to Section 24(11)(b) of the MP VAT Act, for the purpose of effecting recovery of the amount of tax, penalty, interest and amount forfeited, which is due and recoverable from any dealer as arrears of land revenue, the Commissioner of Commercial Tax (CCT) shall have and exercise all the powers and perform all the duties as given under the Madhya Pradesh Land Revenue Code, 1959 (MPLRC).

We conducted a Performance Audit on **"Recovery of Revenue Arrears in the Commercial Tax Department"** which indicated a number of system and compliance deficiencies.

2.10.2 Organisational set up

The Principal Secretary, Commercial Tax Department is the Administrative head of the Department at the Government level. The CCT is the head of the Department. The Commercial Tax Department functions under the overall control of CCT assisted by Additional Commissioner of Commercial Tax (Addl. CCT), Deputy Commissioners (DCCT), Assistant Commissioners (ACCT), Commercial Tax Officers (CTO), Assistant Commercial Tax Officers (ACTO) and Inspectors of Commercial Tax (CTI) in performance of such functions as may be assigned by him under the Act. The Department is divided into five zones, each headed by an Addl. CCT. Each zone comprises of the divisional offices. There are 15 divisional offices, each headed by a DCCT. Under these divisions, there are 80 circle offices headed by the CTO/ACCT.

For the purpose of recovery of outstanding dues as arrears of land revenue, the CTOs and ACTOs shall have and exercise all the powers and perform all the duties of *Tehsildar* under the MPLRC. The individual assessing officer is responsible for issue of Revenue Recovery Certificates (RRC) in respect of arrears of tax not deposited by the dealer and the CTOs/ACTOs institute proceedings for effecting recovery as arrears of land revenue under MPLRC. The monitoring over the progress of recovery of tax is carried out by CCT through periodical returns.

2.10.3 Scope of Audit

For the purpose of the performance audit we examined the records of 30 out of 38 circles in seven selected divisions[2] for the period 2006-07 to 2010-11 between January and August 2012. The divisions were selected on the basis of simple random sampling method. The circle wise arrear of revenue were considered as the basis for selection for test check of records.

2.10.4 Audit Objectives

The performance audit was conducted with a view to ascertain:

- whether the system to collect the arrears of tax was effective and efficient;
- whether the rules and procedures prescribed in the *Adhiniyam*/ MP VAT Act and Rules made thereunder for recovery were scrupulously followed; and
- whether an adequate internal control and monitoring mechanism exists for prompt realisation of arrears of revenue.

2.10.5. Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Tax Department for providing necessary information and records to Audit. An entry conference was held in July 2012 with the CCT, Addl. CCT and other executives of the Department where we informed about the selection of divisions as well as scope, objectives and methodology of Audit. The draft performance report was forwarded to the Government and the Department in September 2012. The exit conference was held in September 2012. The Deputy Secretary of the Commercial Tax Department represented the Government. The Department was represented by the CCT and the Addl. CCT. The responses of the Government/Department have been incorporated, wherever received.

2.10.6 Position of arrears

2.10.6.1 The following table presents the opening balance, addition, clearance and closing balance of arrears of revenue under the *Adhiniyam*/VAT Act during the period 2006-07 to 2010-11:

[2] Bhopal Division I and Division II, Gwalior Division I, Indore Division I, Division II and Division III and Jabalpur Division II.

(₹ in crore)

Position of recovery of arrears				
Year	**Opening balance**	**Addition**	**Clearance**	**Closing balance**
2006-07	759.30	702.79	877.84	584.25
2007-08	584.25	739.77	752.48	571.54
2008-09	571.54	1,086.23	1,111.73	546.04
2009-10	546.04	1,206.32	1,165.41	586.95
2010-11	586.95	1,214.02	1,271.17	529.80

(Source: Information furnished by the Department)

It may be seen from the above table that during the period 2006-07 to 2010-11, the arrears decreased from ₹ 584.25 crore in 2006-07 to ₹ 529.80 crore in 2010-11.

2.10.6.2 According to information furnished by the Department, the arrears were under the following stages of recovery as at the end of March 2011:

(₹ in crore)

Sl. No.	Stages of recovery of revenue	March 2011
1.	Amount stayed by various Courts	49.76
2.	Amount involved in installments	1.47
3.	RRC within the State	17.19
4.	RRC outside the State	83.32
5.	Arrears available for recovery[3]	62.82
6.	Amount involved in closed firm where the whereabouts of the defaulter/property is under investigation	106.71
7.	Amount involved in attachment of movable property	0.62
8.	Amount involved in attachment of immovable property	90.60
9.	Amount awaited for write off	11.51
10.	Amount involved in sick units or BIFR	105.80
Total		**529.80**

It may be seen from the above table that the arrears wherein RRCs have been issued, whereabouts of the defaulter/property is under investigation, movable/immovable property were under attachment and arrears available for recovery amounts to ₹ 277.94 crore (52.46 *per cent* of total arrears). Thus, 52.46 *per cent* of the total arrears were pending at the Departmental level.

[3] The arrears were recoverable within the circle and were free from litigation/appeal.

2.10.6.3 The age-wise details of arrears of revenue furnished by the Department as on 31 March 2011 are as shown in the following table:

(₹ in crore)

Periodicity of arrears	No. of cases	Amount	Percentage of arrears
Above 10 years old	86,942	175.06	32.95
Between 5 and 10 years old	83,939	113.40	21.35
Between 2 and 5 years old	75,548	100.23	18.87
Between 1 and 2 years old	58,712	62.07	11.69
Less than 1 year old	1,13,124	80.40	15.14
Total	**4,18,265**	**531.16**[4]	

As seen from the above table, ₹ 288.46 crore (54.44 *per cent* of the total amount) in respect of 1,70,881 cases were pending for recovery for more than five years.

The Department may take prompt action in respect of cases which are more than five years old to prevent any risk of these arrears becoming unrecoverable due to lapse of time.

2.10.6.4 Non-achievement of targets

The CCT fixed targets for recovery of arrears through special drives and issued instructions from time to time in this regard between October 2006 and October 2010. According to these instructions, the closing balance of arrears has to be less than the opening balance of that year. The specific target for such reduction in opening balance of arrear was fixed at 33 *per cent* for the year 2006-07, 35 *per cent* for the years 2007-08 and 2008-09 and 10 *per cent* for the year 2010-11 while no target regarding reduction in opening balance was fixed for the year 2009-10. Further, there were three common factors in the instructions applicable for the years 2007-08 to 2010-11 i.e. 20 *per cent* of the arrears outstanding at the commencement of the previous year, 80 *per cent* of the arrears generated during the previous year and 100 *per cent* of the arrears of the current year should be recovered. The achievement by the Department in this regard is given below:

(₹ in crore)

Year	Opening balance	Closing balance	Difference (+) Increase (-) Decrease	Target closing balance has to be less than opening balance by *per cent*	Achievement in *per cent* (4) to (2)
1	2	3	4	5	6
2006-07	759.30	584.25	(-) 175.05	33	23.05
2007-08	584.25	571.45	(-) 12.80	35	2.19
2008-09	571.45	546.04	(-) 25.41	35	4.45
2009-10	546.04	586.95	(+) 40.91	--	--
2010-11	586.95	529.80	(-) 57.15	10	9.74

(Source : Information furnished by the Department)

[4] The closing balance at the end of the year 2010-11 was at variance with that of total arrears. The reasons for variation were not made available by the Department despite our request (September 2012).

It is evident from the above table that the targets were not achieved by the Department for the years 2006-07 to 2008-09. The arrears in the year 2009-10 went up by 7.5 *per cent* over that of 2008-09.

The Department stated in December 2012 that in pursuance of the provisions of the MP VAT Act Departmental Officers and Inspectors, besides doing recovery of arrears work, carry out the duties of revenue collection, administrative work, assessment of tax, survey work and allied work entrusted to them from time to time. The Departmental employees also remain engaged in census, election duty and survey work of other Government schemes.

SYSTEM AND COMPLIANCE DEFICIENCIES

2.10.7 Absence of a separate recovery machinery

The CTOs, the Additional CTOs and the ACTOs, as the case may be, are responsible for effecting recovery of arrears in respect of the *Adhiniyam*/ MP VAT Act. The CTOs, Additional CTOs and ACTOs do the work of revenue collection, assessment of tax and allied work entrusted to them by the senior officers besides being responsible for effecting recovery. Absence of a separate Recovery Cell or recovery machinery in the Commercial Tax Department for dealing with the huge mounting arrears, led to abnormal delays in initiating action for recovery, as mentioned subsequently in paragraph no. 2.10.9.

The Government may consider putting in place a dedicated recovery machinery for focusing on recovery of arrears.

2.10.8 Non-maintenance/irregular maintenance of prescribed Registers

Every Assessing Authority (AA) is required to maintain a register of cases instituted and a register of disposal of assessment cases in proforma in Annexure II and III respectively prescribed under Part I of the Sales Tax Manual Volume II (Manual). The maintenance of these registers is essential to have a proper watch on cases instituted, disposal of assessment cases and recovery of revenue arrears etc. Further, the Manual also provides that a Table Diary containing information about cases instituted, assessment of the cases, demand, collection and outstanding dues during the month should be prepared on the basis of these registers by each AA and sent to the next higher authority before the 10th of the following month.

During test check of the registers of cases instituted and register of disposal of assessment cases in the 30 selected circles, we noticed that the registers were not being maintained in the prescribed proforma in any of the circles. Further, in 18 circles, we noticed that the columns prescribed for Demand notice issue date, Demand notice serving date, RRC number and RRC issue date, RRC demand notice issue date and

RRC demand notice serving date etc. were left blank in respect of 716 cases. The details are given in the following table:

Sl No	Circles/Division	No of Dealers	Columns not filled				
			Demand notice issue date	Demand notice serving date	RRC No and RRC issue date	RRC demand notice issue date	RRC demand notice serving date
1	CTO XI Ind/Dn III Indore	29	14	18	11	13	24
2	CTO XII Ind/Dn III Indore	29	29	29	29	29	29
3	CTO XIV Ind/Dn I Indore	39	02	39	18	39	39
4	CTO III Ind/Dn II Indore	20	17	20	14	20	20
5	CTO VI Ind/Dn II Indore	17	-	17	-	17	17
6	CTO I Ind/Dn I Indore	31	02	31	10	31	31
7	CTO II Ind/Dn I Indore	51	51	51	16	51	51
8	CTO V Ind/Dn I Indore	47	47	47	02	47	47
9	CTO XIII Ind/Dn III Indore	54	-	-	-	18	21
10	CTO IX Ind/Dn III Indore	48	48	48	29	48	48
11	CTO VIII Ind/Dn III Indore	36	36	36	36	36	36
12	CTO XV Ind/Dn I Indore	86	-	86	19	78	78
13	CTO VII Ind/Dn III Indore	42	-	06	-	12	12
14	CTO IV Ind/Dn II Indore	41	-	07	01	06	28
15	CTO I Gwl/Dn I Gwalior	10	01	10	09	10	10
16	CTO III Gwl/ Dn I Gwalior	64	-	15	35	35	46
17	CTO IV Gwl/Dn I Gwalior	33	06	27	10	10	33
18	CTO II Gwl/Dn I Gwalior	39	10	39	05	05	39
Total		**716**	**263**	**526**	**244**	**505**	**609**

(Source : Information compiled in audit from register of disposal of assessment cases of the circles)

Non maintenance/updation of the registers indicated absence of effective monitoring as well as delay in initiating recovery proceedings which affected the recovery of revenue arrears.

2.10.9 Delay in initiating recovery proceedings

According to the provisions of the MP VAT Act and the *Adhiniyam*, a dealer is required to deposit the tax assessed by the AA within 30 days from the date of service of notice of demand, failing which the amount is to be recovered as arrears of Land Revenue. Further, in accordance with the CCT's circular of November 1992, if the amount remains unpaid, RRCs are to be initiated within 30 days from the date of expiry of the period of notice. The demand notices of assessment/RRC should be prepared and dispatched by the reader of the Reader Section within three days to Process Servers Section for serving the notice. Further, such demand notices are required to be served on the address of the dealer within seven days of their receipt from Reader Section.

During test check of 457 cases produced to audit out of 716 cases discussed in the preceding paragraph, we noticed that the revenue recovery proceedings were delayed up to four years due to non-issue/delay in issue of notices of demand, delay in serving the notices of demand or delay in issue/ institution of RRCs in 38 cases, involving arrears of ₹ 2.86 crore. A few illustrative cases are mentioned below:

Sl. No.	Name of circle/ Division	Period of assessment (Case no)/ Date of assessment	Dealer / Amount (₹ in lakh)	Date of issue demand notice issued/ served	Due date of RRC/ Date of RRC issued or instituted	Date of demand notice (RRC) issued/ served	Remarks :-Delay in the process of 1- issue of demand notice of assessment 2- serving of demand notice of assessment 3- issue/ institution of RRC 4- issue of demand notice of RRC 5- serving of demand notice of RRC
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Circle XI/ Dn-II, Indore	2000-01 (40/01)/ 19.01.07	M/s Adarsh Oxygen Pvt. Ltd/ 1.87	19.01.07/ 03.07.07	02.09.07/ 08.08.07	15.02.12/ 16.02.12	2- by five months seven days. 4- by four years six months four days.
2.	Circle IV / Dn- I Gwalior	2007-08 (584/08)/ 26.07.10	M/s Sagar Enterprises/ 10.32	31.07.10/ 07.08.10 (date not available but due on)	07.09.10/ 14.10.10/	17.10.10 (date not available but due on)/ 30.07.11	1- by two days. 3- by one month seven days. 5- by nine months six days.
3.	Circle IV / Dn- I Gwalior	2003-04 (642/07 R)/ 29.12.09	M/s Omtech peripherals/ 5.41	01.01.10 (date not available but due on)/ 28.02.10	02.05.10/ 30.08.10	30.07.11/ 14.09.11	2- by one month twenty days. 3-by three months twenty eight days. 4- by ten months twenty seven days. 5- by one month ten days.
4.	Circle III/ Dn- I Gwalior	2006-07 (288/07)/ 27.06.09	M/s Agrawal Trading Company/ 15.63	27.06.09/ 20.08.09	20.10.09/ 19.07.10	02.04.11/ 25.04.11	2- by one month sixteen days. 3 -by eight months twenty nine days. 4- by eight months eleven days. 5- by sixteen days.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
5.	Circle III/ Dn- I Gwalior	2006-07 (238/07)/ 27.06.09	M/sPooja Trading Company/ 39.14	27.06.09/ 04.09.09	04.11.09/ 19.07.10	02.04.11/ 26.04.11	2- by two months. 3- by eight months fifteen days. 4- by eight months eleven days. 5- by seventeen days.
6.	Circle III/ Dn- I Gwalior	2002-03 (28/07 R)/ 03.12.09	M/s Super Food/ 21.48	07.12.09/ 21.06.10	21.08.10/ 28.06.10	15.03.11/ 29.03.11	2- by six months seven days. 4- by seven months twenty days. 5- by seven days.

After we pointed out the cases, the AA of Circle-IV of Gwalior Division I stated in June 2012 that the work of updating of information in the records could not be done as most of the employees remained engaged in census and other related work and that the records would be updated. The AAs of Circle I and II, Gwalior, further intimated in December 2012 that RRC in one case and demand notices after instituting the RRC in the remaining cases have been issued/ served between June and December 2012 at the instance of audit. The remaining AAs stated in June 2012 that action for recovery would be taken after updating the information in the records. Further report in the matter has not been received (March 2013).

2.10.10 Non-pursuance of Revenue Recovery Cases sent to other circles within the State

In case where the defaulters do not own any property in the jurisdiction of the Circle but have property in the jurisdiction of some other Circle, the concerned assessing authority is required to address the revenue authority of that Circle for collecting the arrears according to the provisions of the Revenue Recovery (RR) Act 1890. For this, the Revenue Recovery Certificates (RRC) are required to be forwarded to the Collectors of the districts of the State in which the defaulters possess properties.

During test check of the recovery files of 110 dealers of selected divisions we noticed in case of 13 dealers in three divisions that RRCs were forwarded by the Department to the revenue authorities of other circles within the State for recovery of dues of ₹ 5.48 crore as arrears of land revenue between January 1999 and March 2011. However, the cases were not pursued further with the concerned authorities. Non-pursuance of Revenue Recovery cases by the AAs resulted in ₹ 5.48 crore remaining unrecovered in 13 cases as shown in the following table:

Sl. No.	Details of dealer	Period of Dues	Amount due (₹ in lakh)	Circle/ Division from where RRC sent	Circle where RRC was sent	Date of requisition/ date of reminder	Present status of the case
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	M/s Satal Kattha & Chemicals	1992-93, 1997-2002	11.11	CTO IX Ind/ Dn III Indore	Rajgarh/ DCCT Ujjain	04.07.2006/ Nil	No action was taken to pursue the cases after issue of RRC to other circles.
2.	M/S Maya Spinners Ltd.	1997-99, 2000-03	194.59	CTO IX Ind/ Dn III Indore	Khandwa Dn.	19.01.2006/ Nil	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
3.	M/s Sterling Cockshade Bricks Ltd.	1993-95	4.55	CTO IX Ind/ Dn III Indore	Khargone/ DCCT Khandwa	22.09.2004/ Nil	No action was taken to pursue the cases after issue of reminders.
4.	M/S Sterling Structure Ltd	1996-97	0.53	CTO IX Ind/ Dn III Indore	Dhar, circle I	24.09.2001/ Nil	
5.	M/S Mahaveer Agro Product Pvt Ltd.	1989-94,	23.03	CTO IX Ind/ Dn III Indore	DCCT Ujjain/ Circle Dewas	10.11.2006/ Nil	
6.	M/s JD Enterprises, Indore	2002-03	14.53	CTO I Ind/ Dn I Indore	DCCT Ujjain	28.10.2005/ Nil	
7.	M/s Dadhich Timber Suppliers, Indore.	1995-99	93.83	CTO I Ind/ Dn I Indore	DCCT Ratlam	16.10.2001/ 27.08.2004	
8.	M/s Verma Tyre & Tube, Bhopal	1989-93	0.07	CTO V Bpl/ Dn I, Bhopal.	Betul	16.02.2011/ 17.03.2011	
9.	M/s SK Tyre & Tube, Bhopal.	1988-93	73.79	CTO V Bpl/ Dn I, Bhopal.	Betul	16.02.2011/ 17.03.2011	
10.	M/s SK Tyre & Tube, Bhopal.	1988-93	0.62	CTO V Bpl/ Dn I, Bhopal.	Betul	23.03.2007/ 17.03.2011	
11.	M/s SK Tyre & Tube, Bhopal.	1988-93	0.03	CTO V Bpl/ Dn I, Bhopal.	Betul	23.03.2007/ 17.03.2011	
12.	M/s SK Tyre & Tube, Bhopal.	1988-93	0.04	CTO V Bpl/ Dn I, Bhopal.	Betul	23.03.2007/ 17.03.2011	
13	M/s Urja Cables & Metals Pvt.Ltd.	1998-99	130.99	Circle-I, Bpl/Dn-I, Bhopal	Mandideep & Vidisha	March 2012	
Total			**547.71**				

After we pointed this out, the Department stated in June and July 2012 that reminders would be issued for recovery. Further progress in the matter has not been received (March 2013).

2.10.11 Non-pursuance of Revenue Recovery Cases sent to other States

In case where the defaulters do not own any property in the State but have property in some other State, then the concerned assessing authority is required to address the revenue authority of that State for collecting the arrears according to the provisions of the RR Act. For this, the RRCs are required to be forwarded to the Collectors of districts of the States in which the defaulters possess properties. Further, the CCT had nominated (July 2011) various CTOs as nodal officers to monitor the RRCs transmitted to other States.

During test check of the Recovery files of 191 dealers of selected divisions, we noticed in 31 cases of 29 dealers in three divisions[5], that RRCs were forwarded by the Department to the revenue authorities of other States between November 1996 and January 2010 for recovery of dues as arrears of land revenue. However, the cases were not followed up. Non-pursuance of RRCs by the AAs resulted in ₹ 28.44 crore remaining unrecovered as shown in **Annexure-I**.

[5] Bhopal Division I, Indore Division II and Indore Division III.

After the cases were pointed out, the respective AAs stated between June and July 2012 that reminders would be issued/necessary action would be taken. Further developments about these cases have not been received (March 2013).

The Government may consider evolving a system for regularly coordinating with their counterparts in other states to whom RRCs have been issued.

2.10.12 Inaction in lodging/pursuing claims with the Official Liquidator

The Official Liquidators (OLs) are officers appointed by the Central Government under Section 448 of the Companies Act. The primary function of the OL is to administer the assets of Companies under liquidation, sale of the assets and realisation of all debts of the Companies in liquidation for the purpose of distributing the same among various creditors and other shareholders of the Companies and to finally dissolve such Companies after the affairs are completely concluded. According to Section 530 (i) (a) of the Companies Act, 1956, there shall be paid in priority to all other debts, all revenues taxes, etc., due from the Company to the Central or a State Government or to a local authority at the relevant date and having become due and payable within the twelve months next before that date.

During test check of recovery files of Circle IX of Division III, Indore in June 2012, we noticed that there were arrears of ₹ 1.50 crore in three cases as detailed below:

Sl. No.	Dealer	Case No. of Board for Industrial and Financial Reconstruction	Period	Arrear (₹ in lakh)
1.	M/s HMP Engg, Indore	164/1998	1992-93 to 1996-97	62.25
2.	M/s Dheeraj Poly Pack P. Ltd., Indore	39/1996 & 2104/2004	1992-93 to 1998-99	44.38
3.	M/s Modi Stone Ltd., Indore	32/1998	1995-96 to 1998-99	43.26
Total				**149.89**

All the cases mentioned above were registered under Board for Industrial and Financial Reconstruction (BIFR) and the MP High Court, Indore Bench had appointed Official Liquidator (OL) in these cases. The CCT instructed the divisional office in December 2008 to prefer the claim before the OL in the prescribed manner which had not been preferred till the date of audit (June 2012). The inaction on the part of the Department in these cases resulted in non-recovery of arrears of ₹ 1.50 crore.

2.10.13 Non-issue of *kurky*[6] warrants

The departmental instructions (November 1992) provide that if a dealer fails to deposit the dues in compliance of notice of demand issued after instituting the RRC, *Kurky* warrants are required to be issued for movable and immovable properties after seven days and 15 days respectively.

During test check of the recovery files of Circle-I and Circle II of Bhopal Division-I and Circle-I, Katni of Jabalpur Division-I in July and August 2012, we noticed that in six cases, no action was taken either after institution of RRC or issue of demand notices between June 2007 and October 2011. Action to attach the properties and recover the dues by auctioning the properties was not taken. This resulted in non-recovery of arrears of ₹ 62.12 lakh as detailed below :

Sl. No.	Circle / Division	Name of dealer	Period/ Assessment Date	Arrears (₹ in lakh)	RRC notice of demand issued on	Reply of the AA
1	Circle-I/ Div-I, Bhopal	M/s Amar Dal Mill	2005-06/Not available	1.14	21.09.11	The *kurky* warrant were issued between October 2012 and December 2012 by the AA at the instance of Audit.
2	Circle-I/ Div-I, Bhopal	M/s Legend Marketing	2006-07/ 27.06.09	2.14	09.08.11	
3	Circle-I/ Div-I, Bhopal	M/s K. K. M. Sales	2008-09/ 20.05.11	3.37	27.08.11	
4	Circle-I/ Div-I, Bhopal	M/s Battery Power point	2008-09/ 05.05.11	1.34	01.10.11	
5	Circle-II/ Div-I, Bhopal	M/s Dev Jyoti Sindicate	2003-05 & 2006-07/ Jan 2008 to June 2009	17.56	June 2007 to January 2011	
6	Circle-I, Katni, Div-II, Jabalpur	M/s Bebar Construction Company	2007-08/ December 2008	36.57	04.03.11	The AA stated (December 2012) that the CTI has been asked to furnish the details of immovable properties of the dealer which has not been received. It was also stated that action to send the RRC to Jaipur (Rajsthan), on the basis of the permanent address of the dealer, is being taken.
			Total	**62.12**		

Further progress in the matter has not been received (March 2013).

[6] An order to attach the property.

2.10.14 Non-realisation of arrears of assessed tax due to delay in auctioning the attached property

MP VAT Act provides for recovery of dues remaining unpaid on the expiry of the period prescribed for the payment as an arrear of land revenue according to the provisions of the MPLRC by attachment and sale of movable or immovable property of the defaulter.

During the test check of recovery files of selected divisions, we noticed (June and July 2012) in seven circles[7] of four divisions[8] that delay in auctioning the attached property resulted in non-realisation of arrears of assessed tax of ₹ 7.11 crore in 12 cases. A few illustrative cases are mentioned below:

Sl. No.	Circle/Division/ Month of Audit	Name of the dealer	Arrear (₹ in lakh)	Period of arrears/ Date of assessment	Audit observation
1.	Circle-IX of Indore, Division-III/ June 2012	M/s Polylube	256.95	Between 1992-93 and 2000-01/Not available in the file	As the dealer did not pay the dues, the Department initiated action to recover the dues as arrears of land revenue under MPLRC in January 2004 by attachment of immovable property. We observed from the file that the AA ordered the Commercial Tax Inspector (CTI) in January 2005 to get the property valued. The property was got valued in November 2006 and according to the valuation report the value of the property was estimated at ₹ 4.56 lakh only. The property was put to auction on 14.12.2006, against which the highest bid was for ₹ 3.81 lakh, which was not accepted. No action was taken by the Department till December 2009, when the AA again ordered the CTI to get the property valued. Further information about the status of the case was not available in the file, and the arrears remained unrecovered.
After we pointed out the case (June 2012), the AA stated (December 2012) that the attached property is being valued by the Government valuer and the details of other properties of the dealer were not available with the Department as the registration file of the dealer was with Economic Offence Wing, Indore. However, the details of other properties are being traced out from Municipal Corporation/Registration Department. Further report has not been received (March 2013).					
2.	Circle XIII of Indore Division III/ July 2012	M/s Natraj Cold Storage & Foods Pvt. Ltd	168.71	From 2006-07 to 2009-10/ Not available in the file	The dealer was in arrears of tax of ₹ 60.90 lakh for the period 2006-07. As the dealer did not pay the dues, an Attachment Order of the business premises (cold storage and land) was issued in February 2010. No action was taken by the Department to auction the attached property till September 2010. The consolidated demand of ₹ 1.69 crore was prepared by the Department after adding the demand of the assessments for the period 2007-08 to 2009-10 in the aforesaid arrears. In August 2011, the Department obtained valuation report of the property from a recognised

[7] Circle- I Bhopal, Circle- V Bhopal, Circle-II and Circle III, Gwalior, Circle-IX Indore, Circle-XIII Indore and Circle-XV Indore.

[8] Division I of Bhopal, Division I of Gwalior, Division I of Indore and Division III of Indore.

					valuer. According to the valuation report, the estimated realisable value was ₹ 11 crore. In February 2012, against the auction made with a reserve price of ₹ 12.10 crore, maximum bid of ₹ 7 crore was received. The bid was not accepted by the Department as it was below the reserve price. The CCT was not consulted before rejection of the bid by the AA. Despite attempts to auction the property in March 2012, the property could not be auctioned. No action was taken by the Department to auction the property after March 2012. There was nothing on record which could explain the reasons for fixing the reserve price above the value shown in the valuation report and reasons for not consulting the District Registrar before fixing such price. Non-auction of attached property resulted in non-realisation of Government dues of ₹ 1.69 crore.
After the cases were pointed out, the AA stated in July 2012 that action for recovery was in progress. Further progress in the matter has not been received (March 2013).					
3.	Circle III of Gwalior Division-I/June 2012	M./s Tirupati Chemicals	61.82	1996-97 to 1998-99/not available in the file	We noticed in June 2012 that the dealer had arrears of assessed tax of ₹ 26.14 lakh for the year 1997-98. An order for attachment of immovable properties (factory building, plant and machinery) to recover the dues was made in February 2002. The Department sent a requisition (October 2005) to the Collector Kolkata (WB) for recovery of dues of ₹ 61.82 lakh, for the period from 1996-97 to 1998-99 including the aforesaid dues, followed by a reminder in October 2009. Action to auction the property attached in February 2002 was, however, not taken by the Department till December 2011. Further scrutiny of the file indicated that an ACTO was directed (January 2012) to report the status of the property attached in February 2002 by the Department. According to the status report (February 2012) there were only remains of the factory building and there was no trace of plant and machinery. It was also mentioned in the status report that according to the persons residing in the vicinity of the factory, the factory building was broken after removing the plant and machinery. Since the dealer was having properties in this State, referring the matter outside the State was unwarranted which resulted in recovery not being effected. Thus, the Department failed to follow up the case due to which the dues of ₹ 61.82 lakh could not be recovered.
After we pointed out the case (June 2012), the AA stated in December 2012 that the land actually belonged to Industrial Infrastructure Development Corporation (Gwalior) M.P. Ltd. which has taken back the possession of the land from the dealer on 31.08.2012. The AA further added that after making correspondence with the dealer on his Kolkata address the lawyer of the dealer appeared on 17.12.2012 and that the recovery of the arrears will be made good very soon.					
4.	Circle-IX of Indore Division-III/ June 2012	M/s Kowa Spinning Private limited, Indore	85.79	Between 1989-90 and 1999-2000/ Not available in the file	We noticed that a show cause notice to cancel the registration certificate of the dealer was issued. According to the show cause notice, the unit was in arrears of ₹ 85.79 lakh for the period

					1990-92 and 1995-2000. We, however, noticed that the arrears of ₹ 12.08 lakh only was mentioned in the *kurky* warrant issued in August 2005. Further, though the Department offered the property on auction on five occasions between November 2005 and March 2006, no bids were received. The recovery proceedings were not conducted from March 2006 to July 2010 with reference to an order of Indore bench of High Court which showed that the Department was not a party in that case. The Department tried to auction the attached property on four occasions between August 2010 and October 2011. Thus, the Department failed to take recovery action on the basis of an order which was not applicable to it. We also observed from the file that during the entire period, the Department did not undertake valuation of property to fix the reserve price. No further details regarding auction and recovery proceedings were available in the file. Thus, the Department failed to effectively follow up the case, which resulted in non-recovery of arrears of ₹ 85.79 lakh.
After we pointed out the case (June 2012), the AA stated (December 2012) that no bid was received in March, April, July, September and October 2012 and all out efforts to get the property auctioned are being made. The fact, however, remains that no action was taken between March 2006 and July 2010 and the dues had not been recovered till date. Further reply has not been received (March 2013).					
5.	Circle- XV of Indore Division-I/ June 2012	M/s Kaushalya Auto Spring P. Ltd.	13.92	1995-96 to 1999-00 /between March 2001 and December 2002	As the dealers did not pay the dues, the Department initiated action under MPLRC by attaching their properties in March 2003. In all the three cases the properties were got valued by a registered valuer in March 2007. Though the properties were put to auction on several occasions, they could not be sold till January 2012 as no bids were received during the auctions except in the case of auction of the attached property of M/s *Kaushalya* Auto Spring P. Ltd. held in February 2008. That bid was also not accepted as the bid was of ₹ 3.25 lakh against the reserve price of ₹ 14.45 lakh. In January 2012 and March 2012, the AA directed that a letter may be issued to the registered valuer for valuation of the properties. No further progress in the matter was on record in the files. Non-disposal of properties due to non-valuation resulted in non-realisation of arrears of ₹ 48.54 lakh.
6.	Circle- XV of Indore Division-I/ June 2012	M/s G.K. Tightener Pvt. Ltd.	14.85	1994-95 to 1996-97/ between September 1998 and December 2002	
7.	Circle- XV of Indore Division-I June 2012	M/s Vachan Capes Pvt. Ltd.	19.77	1996-97 to 1998-99/ Not available in the file	

Further developments in respect of these cases have not been received (March 2013).

2.10.15 Non-recovery of arrears due to lack of follow up action in respect of cases pending with BIFR

- During test check of the recovery file of M/s Burn Standard Co. Ltd. of Katni Circle-I of Jabalpur Division-II (August 2012), we noticed that the dealer was in arrears of assessed dues of ₹ 16.70 lakh for the period 1992-93 to 1996-2000. The case[9] was shown as pending with BIFR. Scrutiny of the file indicated that DCCT Jabalpur had written a letter (April 2004) to the CTO I Katni that the unit had eight acres of land near Jabalpur and negotiations with Western Railway (WR) about sale of the land were in progress. He directed to take up the matter with the WR and issue notice under section 38[10] of the *Adhiniyam*. The AA issued a letter to WR in December 2004 after lapse of eight months. No further details about the status of the land were available in the file. Further scrutiny of the recovery file indicated that the Government Advocate informed (November 2007) the Addl. CCT that the stand of the Department about Modified Debt Rehabilitation Scheme (MDRS)[11] was required to be submitted before BIFR. The BIFR listed the matter for further hearing on 27 February 2008. The outcome of this hearing is not on record in the file. The correspondence of the Government Advocate with the Department (April 2011 to May 2012) showed that the views of the Department on MDRS had not been communicated to him so that appropriate submission could be made to the BIFR for recovery of the aforesaid dues. Thus, inordinate delay on the part of the Department resulted in non-recovery of ₹ 16.70 lakh.

  After we pointed this out, the AA stated that a copy of the Debt Rehabilitation Scheme (DRS) has not been obtained by the Department so far (December 2012). Further report has not been received (March 2013).

- During test check of the recovery file of M/s Super Sack Unit no II of M/s Midland Plastic Ltd. in Circle II of Gwalior Division II (June 2012), we noticed that the Company was in arrears of ₹ 3.12 crore. These dues were related to the period from 1997-98 to 2007-08. Further, a *kurky* warrant for attachment of property was issued by the AA on 13 March 2009 against dues of ₹ 60.64 lakh, which was less than the total dues by ₹ 2.51 crore. The reasons for issuing attachment notice for an amount that was less than the recoverable arrears were neither recorded in the file nor furnished by the AA. This notice was returned to the AA by the ACTO of Circle II Gwalior Division II for appropriate action, with the remarks that the unit is registered under BIFR (103/06). The details of the summary records of the proceedings of the hearing held on 29 May 2007 before the BIFR indicated that the unit was required to submit DRS within eight weeks with recommendations of all involved agencies. The State Bank of India (SBI) was appointed as the operating agency. Further developments regarding the position of the Government about DRS and its submission to

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9 BIFR case no. 508/1994.

10 Section 38 is related with special mode of recovery.

11 Scheme for revival of the sick unit to be submitted by the owner of the unit to the BIFR.

BIFR was not available in the file. It was also seen from a letter written by the Government Advocate (30 April 2011) that SBI was seeking details of actual dues and minimum amount that would be acceptable for satisfaction of these dues from the Company, so that assets charged to SBI can be sold off under the SARFESI Act[12]. There was no information in the file that any claim was preferred by the Department. The arrears of ₹ 3.12 crore are still outstanding against the unit.

After this was pointed out in audit, the AA stated that audit would be intimated after review of the case. Further progress in the matter has not been received (March 2013).

2.10.16 Conclusion and Recommendations

2.10.16.1 Conclusion

Tax/ VAT on sales, trade etc., is a major source of revenue for the State and the CCT has been given the powers of revenue authorities for recovery of arrears. It is imperative that the Department promptly and efficiently recover the revenues due for recovery. We observed that the Department did not adequately monitor the RRC cases. RRCs/notices of demand were either not issued or issued late by the AAs. We also saw that the RRCs issued to other States/ other Circles within states were not pursued, properties of dealers were not attached or attached properties were not auctioned off in time to realise the dues. Claims lodged with OL and BIFR were not pursued promptly and effectively. These aspects reflect weaknesses in the system which necessitates a strong machinery for collection of arrears.

2.10.16.2 Recommendations

The Government may consider:

- taking prompt action in respect of cases which are more than five years old to prevent any risk of these arrears becoming irrecoverable due to passage of time;
- creating a mechanism for effective and regular pursuance of Tax/VAT on sales, trade etc. dues and putting in place a separate recovery machinery within the Department for focusing on recovery of arrears;
- fixing responsibility against officers involved for delayed issue of RRCs and non pursuance of RRCs sent to other circles within the State and other states; and
- reviewing and reconciling the position of dues so that arrears are reported correctly.

[12] The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2.11 Application of incorrect rate of tax

Two DC offices[13], eight regional offices[14] and 21 circle offices[15]

The Madhya Pradesh *Vanijyik Kar Adhiniyam (Adhiniyam)* and the MP VAT Act read with the Central Sales Tax (CST) Act and notifications issued thereunder specify the rates of commercial tax and the VAT leviable on different commodities. Under the *Adhiniyam* and the VAT Act, a dealer is liable to pay interest, if he fails to pay the taxes due in the prescribed manner and within the *p*rescribed *p*eriod.

We observed (between March 2009 and March 2012) in 50 cases of 50 dealers, assessed between January 2008 and March 2011 for the period 2003-04 to 2008-09, that tax on sales turnover of ₹ 26.77 crore was levied at incorrect rates. This resulted in short levy of tax of ₹ 3.67 crore including interest/penalty of ₹ 1.42 crore. A few instances are mentioned below:

Sl. No.	Name of the unit No. of cases	Assessment period Month of assessment	Name of commodity	Turn-over (₹ in crore)	Rate of tax applicable (*per cent*)	Rate of tax applied (*per cent*)	Amount of short levy of tax (₹ in lakh)
1.	CTO, Circle V, Bhopal 1	2007-08 May 2010	Ujala Supremo (Whitening agent)	4.84	12.5	4	164.42
2.	CTO, Circle-III, Gwalior 1	2007-08 June 2010	Insulation and Lamination	4.00	12.5	4	34.00
3.	CTO, Circle- I, Jabalpur 1	2007-08 May 2010	Bleaching Powder and soda ash	1.83	12.5	4	15.57
4.	RAC, Dewas 1	2007-08 April 2010	Old Plant, Machinery and Car	0.90	12.5	Nil	11.00
5.	CTO, Circle-II, Ratlam 1	2006-07 May 2009	DTH	0.92	12.5	4	10.88

After we pointed out the cases, the AAs in case of eight dealers reassessed (between July 2011 to September 2012) the cases and raised additional demand of ₹ 2.17 crore. In case of one dealer, the RAC, Ratlam accepted (January 2011) the audit observation involving ₹ 1.07 lakh. In case of 33 dealers, the AAs agreed to take action after verification/examination (March 2009 to March 2012).

[13] Satna and Gwalior.

[14] Bhopal, Dewas, Gwalior, Jabalpur, Morena, Neemuch, Satna and Ratlam.

[15] Bhopal (3), Damoh, Dhar, Gwalior, Indore (4), Jabalpur (2), Katni, Khandwa, Mandsour, Neemuch, Ratlam, Sagar (2), Vidisha and Waidhan.

In the remaining cases of eight dealers, departmental replies and our comments thereon are mentioned in the following table:

Sl. No.	Name of the unit/ No. of dealers	Amount involved (₹ in lakh)	Rate of tax applicable/ applied	Commo-dity	Departmental reply	Our comments
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	CTO, Circle-I Bhopal 1	3.22	12.5 4	Fabricated Steel item	MS tank was manufactured and supplied under works contract and tax was levied at the rate of four *per cent* on iron and steel used in the manufacturing of the same.	We do not agree with the reply in view of the fact recorded in documents and decision[16] given by the CCT, MP fabricated steel item is liable to tax at the rate of 12.5 *per cent.*
2.	CTO, Circle-Waidhan 2	11.67 10.00	12.5 4	Tread Rubber	Tax was levied at the rate of 4 *per cent* which was correct and in accordance with the entry no. 55 (41) (compound rubber unvulcanised) of Schedule-II of the Act.	We do not agree with the reply as the trading account, registration certificate and assessment order clearly show that the dealer dealt with the business of tread rubber which is taxable at the rate of 12.5 *per cent.*
3.	CTO, Circle-I, Mandsaur 1	4.24	9.2 4.6	Chlori-nated paraffin Wax (CPW)	Chlorinated paraffin wax is classified under chemical and tax was levied accordingly.	We do not agree with the reply as CPW is a chemical product and not a chemical as per decision[17] given by the CCT, MP.
4.	CTO, Circle-VI, Bhopal 1	3.51	12.5 4	Bleaching powder	Bleaching power is chemical and accordingly tax was levied.	We do not agree with the reply in light of the decision[18] of CCT, MP.
5.	CTO, Circle-IX, Indore 1	0.56	12.5 1.5	Old car	The AA stated that tax was correctly levied.	We do not agree with the reply in view of the provision of the Act.
6.	CTO, Circle-Katni 1	0.71	12.5 4	Dryers	The tax was levied correctly as the dealer had sold Iron structure of dryers.	We do not agree with the reply in view of the available documentary proof which clearly shows that the dealer had sold dryers or its parts which is taxable at the rate of 12.5 *per cent.*

16 (i) M/s Tung Bhadra Steel Products Pvt. Ltd. V/s CST MP (2005) 6 STJ 650 (MP Board) and (ii) M/s Simplex Engeneering and Foundry Works, Rajnadgaon (2008) 13 STJ 183 (CCT, CG).

17 M/s BCM Organic Chemical, Indore (2005) 7 STJ 215.

18 M/s Bhopal Bleach Pvt. Ltd., Raisen (2007) 10 STJ 680.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
7.	CTO, Circle-II Ratlam 1	10.88	12.5 4	DTH (Dish Antenna)	The AA stated that dealer sold antenna, multimedia top box and 'V' sets which is taxable at the rate of 4 *per cent* as per entry no. 51(ii), (xii) & 51,(12), (vi),(vii),(ix) of Schedule II of the Act.	We do not agree with the reply as there is no specific entry of dish antenna (set top box) in the schedule. Tax at the rate of 12.5 *per cent* was therefore levialable in terms of VAT Act.

We reported the matter to the Department and the Government between January and September 2012; their replies have not been received (March 2013).

2.12 Incorrect determination of turnover

Three DC offices[19], Tax audit wing office[20], 16 regional offices[21] and 11 circle offices[22]

According to Section 2 of the Madhya Pradesh *Vanijyik Kar Adhiniyam, (Adhiniyam)* 1994 and the Madhya Pradesh VAT Act, 2002 turnover in relation to any period means the aggregate of sale prices received and receivable by a dealer in respect of any sale or supply or distribution of goods made during that period, excluding the amount of sales return within the prescribed period. For the purpose of determining taxable turnover (TTO), the *Adhiniyam* and the Madhya Pradesh VAT Act provides for deduction from turnover the sale price of tax paid goods and the amount of tax, if included in the aggregate of sale prices. Further, Section 21(3) provides that the assessment or re-assessment under sub section (1) shall be made within a calendar year from the date of commencement of the proceedings.

We observed (between July 2010 and December 2011) that turnover in 44 cases of 43 dealers, assessed between December 2008 and March 2011 for the periods between 2005-06 and 2008-09, was determined less by ₹ 42.65 crore against the aggregate turnover of the dealers recorded in their audited books of accounts/sale list/ relevant records. Thus, turnover aggregating ₹ 42.65 crore was not assessed to tax and resulted in non-levy of tax of ₹ 2.82 crore including interest/penalty of ₹ 3.73 lakh.

[19] Bhopal, Indore and Satna.

[20] Indore.

[21] Bhopal, Gwalior, Guna, Indore (4), Itarsi, Jabalpur (2), Khandwa, Khargone, Satna (2), Sagar and Sendhwa.

[22] Bhopal, Burhanpur, Dhar, Harda, Indore (3), Jabalpur, Satna (2) and Waidhan.

After we pointed out the cases, the Assessing Authorities (AAs), in eight cases of eight dealers, reassessed the cases and raised additional demand (between December 2011 and June 2012) of ₹ 28.95 lakh, in another 29 cases of 29 dealers, the AAs stated (between July 2010 and December 2011) that action would be taken after verification/examination, while in the remaining seven cases of six dealers, the reply of the AAs are as follows:

Sl. No.	Name of the unit	Period Month of assessment	Our observation in brief	Department reply/ our comments
1.	RAC, Sendhwa RAC, Khargone RAC-I, Khandwa	2007-08 November 2009 2006-07 June 2009 & 2007-08 December 2009 2007-08 July 2009	Sale value of vehicles of ₹ 12.49 lakh as per Balance Sheet was not included in the turnover. This resulted in short realisation of tax of ₹ 1.76 lakh (including interest of ₹ 20,292)	The AA Sendhwa replied (November 2010) that purchased vehicles were tax paid from M P registered dealer and hence tax was not levied. The AAs, Khargone and Khandwa raised demand (December 2011) of tax of ₹ 44,671 at the rate of 1.5 *per cent* with penalty. We do not agree with the replies/response of AAs as the vehicle is taxable at the rate of 12.5 *per cent* as per notification No. 70 dated 15 September 2006.
2.	RAC, Div- II Indore	2007-08 June 2010	Sale value of plant and machinery of ₹ 8.25 lakh as per Schedule 5 of the fixed assets was not included in the turnover. This resulted in short levy of tax of ₹ 1.03 lakh.	The AA replied (July 2011) that as per balance sheet the sold plant and machinery was from branch of other state. We do not agree with the reply as the branch sale and purchase account was found separately attached with the case.
3.	RAC, Div- II Indore	2006-07 April 2009	Sale value of plant and machinery of ₹ 28.46 lakh as per Annexure-III of Audit Report was not included in the turnover. This resulted in short realisation of tax of ₹ 3.56 lakh.	The AA replied (July 2011) that case has already been reopened under Section 28(1). We do not agree with the reply because one year has passed after issue of notice to the dealer on 17.06.2010 and re-assessment under sub section (3) of the Section 21 cannot be made beyond a period of one calendar year from the date of issue of notice.
4..	CTO, Circle- II, Satna	2007-08 December 2009	Sale value of Plant and Machinery of ₹ 4.16 lakh as per schedule 'D' of Assets was not included in the turnover. This resulted in short realisation of tax of ₹ 68,254 including interest of ₹ 16,224.	The AA replied (August 2011) sale value of Plant and Machinery have been included in the returns at which tax has already been levied. The reply is contrary to the facts as sale of plant and machinery has not been included in the taxable turnover.

We reported the matter to the Department and the Government between January and March 2012; their replies have not been received (March 2013).

2.13 Allowance of inadmissible Input Tax rebate

(A) DC office Gwalior, five regional offices[23] and nine circle offices[24]

According to Section 14 of the MP VAT Act, 2002, where a registered dealer purchased any goods specified in Schedule II of the Act other than those specified in Part III of the said Schedule, from another registered dealer after payment of input tax, he shall be allowed input tax rebate (ITR) of the amount of such input tax.

We observed during June 2010 to December 2011 that 15 dealers assessed between May 2009 and November 2010 for the period 2006-07 to 2008-09 were granted inadmissible ITR of ₹ 87.18 lakh.

After we pointed out the cases, the AAs in case of 13 dealers stated that action would be taken after verification. In the remaining two cases, the Departments replies and our comments are as follows:

(₹ in lakh)

Sl. No	Name of the unit No. of dealers	Period of assessment Month of assessment	Our observation	Reply of the department and our comment
1.	CTO, Circle-I, Damoh 1	2007-08 September 2009	A dealer purchased electronic items valued at ₹ 38.45 lakh from other dealers after payment of input tax of ₹ 4.81 lakh thereon. However, the AA allowed ITR of ₹ 4.99 lakh. This resulted in incorrect grant of ITR of ₹ 18,000.	The AA stated that ITR was granted as per rule. We do not agree with the reply in view of the fact available in the audited accounts.
2.	DC, Div-II, Gwalior 1	2007-08 December 2009	A dealer purchased High speed diesel (HSD is a Schedule II part III goods on which ITR is not allowable) valued at ₹ 6.53 lakh on which AA allowed ITR of ₹ 1.70 lakh incorrectly. This resulted in excess grant of ITR of ₹ 1.70 lakh.	The AA stated that ITR was not allowed on HSD as mentioned in the assessment order. We do not agree with the reply in view of the quarterly return for the period July 2007 to September 2009 in which ITR was adjusted for ₹ 2.67 lakh including ITR of ₹ 1.70 lakh allowed on purchase of HSD.

[23] Bhopal, Chhindwara, Indore, Jabalpur and Sagar.

[24] Bhopal (2), Damoh, Gwalior, Harda, Jabalpur, Mandsaur and Satna (2).

(B) RAC office, Ratlam

According to provision of para 3 (3) of notification no. A-3-195.2005-1-V (31) dated 31.03.2006, if the goods manufactured are goods specified in Schedule II of the VAT *Adhiniyam*, the dealer shall compute his tax liability by deducting input tax rebate from tax collected on sales within the state and be eligible to retain the amount of the tax collected, which is in excess of the input tax rebate. The amount so retained shall be included in computation of cumulative quantum of tax benefit.

We observed in January 2011 that a dealer assessed in June 2009 for the period 2006-07 was incorrectly allowed carry forward of ITR of ₹ 53.89 lakh. This resulted in excess grant of ITR of ₹ 53.89 lakh. After we pointed out the case, the AA referring to the notification dated 31.03.2006 stated that ITR of exemption period may be adjusted in the balance period of the assessment year. We do not agree with the reply of the AA in light of the said notification. As per the notification, the ITR of ₹ 53.89 lakh was to be adjusted first against the VAT computed for sale of exemption period and excess of ITR should be included in computation of cumulative quantum of tax benefit. The AA, however, adjusted the full amount of VAT against the cumulative quantum of tax benefit. As a result, ITR of ₹ 53.89 lakh was carried forward for adjustment in the next quarter, which was not in consonance with the said notification.

(C) DC office Indore, regional office Dewas and three circle offices[25]

In terms of Section 14 of the MP VAT Act, 2002, where a registered dealer purchases any goods specified in Schedule II of the Act, other than those specified in part III of the said Schedule, for use or consumption in the manufacture of other goods and the dealer has claimed and adjusted ITR (Input tax rebate) towards the tax payable by him, in the event of disposal of the goods otherwise than by way of sale within the State, he shall be liable to pay the amount of ITR at the rate of four *per cent* of the purchase price or net of input tax of such goods, whichever is lower. The Act further provides that where a registered dealer purchases any goods after payment of input tax for consumption or use in the manufacture or processing or packaging in connection with sale of goods declared tax free under Section 16 of the Act, he shall be allowed ITR of the amount of such input tax which is in excess of four *per cent* of the *p*urchase *p*rice of such *g*oods.

We observed during February 2011 to March 2012 that five dealers assessed between May 2009 and December 2010 for the period 2006-07 to 2008-09 were allowed inadmissible ITR of ₹ 36.04 lakh on account of non- payment of ITR claimed on goods transferred out of the State otherwise than by way of sale or excess allowance of ITR on sale of

[25] Bhopal, Indore, Jabalpur.

tax free goods.

After we pointed out the cases, the AAs in four cases stated that action would be taken after verification. In the remaining two cases, our observations and replies of the Department are mentioned below:

Sl. No	Name of the unit No. of dealers	Period of assessment Month of assessment	Our observation	Reply of the department and our comment
1.	DC, Div- III, Indore 1	2007-08 March 2010	The dealer made stock transfer of ₹ 20.36 crore being 12.5 *per cent* of turnover of goods transferred/sold out of state. Sold tax paid purchase of goods of ₹ 27.62 crore was also included in the turnover. This means that stock transfer of goods valued at ₹ 3.45 crore being 12.5 *per cent* of tax paid purchase was made as sale out of state against which ITR of ₹ 13.81 lakh at the rate of 4 *per cent* was to be paid back by the dealer. However, the AA allowed adjustment of ITR of ₹ 4.54 lakh instead of ₹ 13.81 lakh. This resulted in excess grant of ITR of ₹ 9.27 lakh.	The AA stated that according to the sale list the sale out of state was of ₹ 1.18 crore on which ITR reversal of ₹ 4.54 lakh was made at the rate of four *per cent*. We do not agree with the reply in view of the fact available in the assessment order in which sale out of state of ₹ 20.36 crore was clearly mentioned. The sale out of state being 12.5 *per cent* of total sale, the proportionate value of purchase on which ITR was to be reversed works out to ₹ 3,45,21,096 (12.5 *per cent* of total tax paid purchase) instead of ₹ 1,18,12,920 determined by AA. This resulted in less reversal of ITR amounting to ₹ 9,26,500.
2.	DC, Div-III, Indore 1	2008-09 December, 2010	The dealer manufactured and sold tax free goods under section 16. During the period the dealer purchased plant & machinery after paying tax of ₹ 4.19 lakh (at the rate of 4 *per cent* and 12.5 *per cent*) and used the same in manufacturing of the tax free goods. The AA, while finalising the assessment, allowed ITR of ₹ 4.19 lakh instead of ₹ 2.02 lakh (excess of four *per cent*.). This resulted in excess grant of ITR of ₹ 2.17 lakh.	The AA stated that since the dealer was not a manufacturer of the electrical energy, provision of ITR reversal under Section 14 (5) (b) of MP VAT Act was not applicable and as such the tax levied was correct. We do not agree with the reply in view of the provision of Section 14 (5) (b) of MP VAT Act in which it has been clearly mentioned that if plant and machinery is purchased and used in manufacturing of tax free goods, ITR shall be allowed in excess of 4 *per cent*.

(D) RAC office, Sagar

According to Section 14 (3) of MP VAT Act, 2002, the input tax rebate by a registered dealer under sub section (1) shall be adjusted in such manner as may be prescribed towards the tax payable by him under this Act or under the Central Sales Tax Act, 1956 and the difference, if any, shall be carried over for adjustment towards tax payable in the subsequent year provided that the input tax rebate which remains unadjusted even after two years from the close of the relevant financial year shall be granted by way of refund.

We observed in February 2011 that a dealer assessed in June 2009 for the period 2006-07 was allowed ITR of ₹ 36.61 lakh on closing stock of soyabean of ₹ 9.15 crore. Further, the AA incorrectly granted refund of the same. This was, however, to be carried forward for the next two financial years and the ITR which remained unadjusted even after two years from the close of the relevant financial year would thereafter only be granted by way of refund. After we pointed out the case, the AA agreed to take action after verification.

We reported the matter to the Department and the Government between January and September 2012; their replies have not been received (March 2013).

2.14 Non/short levy of entry tax

Four DC[26] offices, 14 Regional offices[27], 18 Circle offices[28] and an Anti Evasion Bureau[29]

Under the *Madhya Pradesh Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhiniyam*, 1976 and rules and notifications issued thereunder, entry tax (ET) is leviable at the specified rates on the goods entering into local area for consumption, use or sale therein.

We observed (between January 2009 and March 2012) in 67 cases of 60 dealers, assessed/reassessed between July 2007 and March 2011 for the period 2003-04 to 2008-09 that ET on goods like iron and steel, plant and machinery, motor vehicle, high speed diesel (HSD), coal, furnace oil, Hexane oil, *ghee,* UPS, home UPS, computer and computer parts, fluid oil (lubricant oil) etc., valued at ₹ 114.79 crore was either not levied or was levied at incorrect rate on their entry into local area. This resulted in non/short realisation of ET of ₹ 2.04 crore including interest and penalty of ₹ 79 lakh.

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26 Chhindwara, Indore (2) and Satna.

27 Bhopal, Chhindwara, Indore (3), Itarsi, Jabalpur, Katni, Khandwa, Ratlam, Sagar and Satna (3).

28 Bhopal (3), Burhanpur, Gwalior, Harda, Indore (5), Itarsi, Jabalpur, Katni, Sagar, Satna, Sehore and Ujjain.

29 Indore.

After we pointed out the cases, the AAs, in case of eight dealers, raised additional demand of ₹ 44.04 lakh of which ₹ 7.90 lakh has been recovered and in one case it was stated that proceedings under section 21 would be taken. In another 44 cases of 38 dealers the AAs stated that action would be taken after verification. In the remaining 15 cases of 14 dealers, the departmental replies and our comments are as under:

Sl. No.	Name of the unit/No. of dealers	Assessment period/ month of assessment	Name of Commodity/ Cost of goods (₹ in lakh)	Rate of tax applicable/ applied	Departmental reply	Our comments
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	RAC-I, Chhindwara 1 RAC-Div.III, Indore 2 CTO, Circle-XIII, Indore 1	2006-07 June 2009 2004-05 & 2007-08 November 2007 & May 2010 2008-09 December 2010	Furnace Oil 189.22	1 Nil	The AA Chhindwara stated that the goods was not purchased from out of state. Hence, ET was not attracted. The other AAs stated that the goods were tax paid.	We do not agree with the reply because furnace oil is not specified in Schedule-I/II of the ET Act. Being goods of Schedule-III, it was taxable at the time of use or consumption. Hence, furnace oil cannot be treated as tax paid goods and was taxable at the rate of one *per cent* as per Schedule-III of the ET Act.
2.	Anti Evasion Bureau, Indore-B 1	26.07.07 to 28.07.07 July 2007	Bidi 1.40	10 2.5	The AA stated that tax and penalty was calculated and assessed as per the Act.	We do not agree with the reply because entry tax on *bidi* is leviable at the rate of 10 *per cent* when brought into local area from outside the state.
3.	DC, Div.-III, Indore 1	2007-08 March 2010	HDPE/PP Bags 201.27	5 1	The AA stated that ET was levied at the rate of 5 *per cent* on HDPE/PP woven sacks and bags and the tax was levied at the rate of one *per cent* on those packing material, which are not HDPE/PP bags.	We do not agree with the reply as HDPE/PP bags were purchased as per purchase list available on record.
4.	DC, Div.-III, Indore 1	2008-09 October 2010	HDPE/PP Bags 38.05	5 1	The AA stated that imported HDPE bags which were used by the dealer were small and without woven bags.	We do not agree with the reply because HDPE/PP woven sacks and bags are leviable to tax at the rate of 5 *per cent* as per notification no. 14 dated 1 April 2007 of ET Act and no condition on the size of bag was prescribed.
5.	DC, Div.-III, Indore 1	2007-08 July 2010	MS/SS wire 291.13	2 1	The AA stated that copper wire was used as a raw material by the dealer on which ET is liable at the rate of 1 *per cent*.	We do not agree with the reply because as per classification of taxable turnover and purchase list MS/SS wire was purchased by the dealer.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
6.	CTO, Circle-I, Bhopal 1	2007-08 March 2010	Timber 26.44	1 Nil	The AA stated that the timber is tax free as per notification no.29 dated 22 September 2007 of the ET Act.	We do not agree with the reply because the said notification is not applicable in the case of purchase from unregistered dealer (URD) and this notification also stated that if the assessee has deposited any tax, the same is not refundable.
7.	DCCT, Div.-III, Indore 1	2008-09 November 2010	Plant & Machinery 1898.82	1 Nil	The AA stated that all purchase lists are attached with the case and objection taken was hypothetical.	We do not agree with the reply because imported value of plant, machinery and vehicle was ₹ 52.96 crore but tax was levied on ₹ 33.97 crore only.
8.	RAC-I, Chhindwara 1	2008-09 November 2010	Copper wire 87.02	1 Nil	The AA stated that the dealer did not purchase and sell machinery and their parts. Copper wire is Schedule-III goods and not liable to tax.	We do not agree with the reply as per decisions given in the case of M/s Hindustan Wire Products (2002) 35 VKN 305 (CST, MP), copper winding wire is taxable as machinery parts in entry No. II/54 of ET Act.
9.	RAC-I, Jabalpur 1	2007-08 July 2010 & January 2011 (Under Section 21)	Bitumen 242.52	1 Nil	The AA stated that tax paid deduction was allowed after due examination.	We do not agree with the reply because the available documents clearly show purchase of bitumen/emulsion which is classified in Schedule-III and taxable at the rate of one *per cent* when used in the works contract.
10.	CTO, Circle-XV, Indore 1	2007-08 July 2010	Iron & Steel 69.76	2 1	The AA stated that iron and steel was not purchased. Only machinery parts were purchased and ET was levied accordingly.	The reply is not in consonance with the facts as recorded in the purchase list, which clearly shows the purchase of iron and steel.
11.	CTO, Circle-IX, Indore 1	2007-08 June 2010	Hexane oil 92.66	1 Nil	The AA stated that the dealer purchased fuel which was tax paid.	We do not agree with the reply because hexane oil is classified in Schedule-III goods, which is taxable at the time of use for manufacture of other goods.
12.	CTO, Circle XII, Indore 1	2007-08 July 2010	Computer and computer parts 252.00	1 Nil	The AA stated that tax was levied at the correct rate as computer/computer parts are notified under Section 3(2) by the notification no. 38 and 39 dated 9 June 2003. Hence tax cannot be levied under section 3(1) of the ET Act.	The reply of the AA does not interpret the fact correctly. Section 3(2)(a)(i) of the ET Act provides that entry tax is levied under this Section on the goods on which entry tax is not leviable under the provisions of Section 3(1) of the Act. From 1 April 2007 entry tax is

						leviable on computer and its parts under the provision of Section 3(1) of ET Act after expiry of notification no.23 dated 29.3.2000.

We reported the matter to the Department and the Government between January and September 2012, their replies have not been received (March 2013).

2.15 Short imposition of penalty

One regional office[30]

As per Section 20 (6) of the MP VAT Act, 2002, if any dealer, being liable to pay tax in respect of any period, has failed to apply for registration, the Commissioner, Commercial Tax shall, within one calendar year from the date of completion of the proceedings under sub section (1) of Section 6, proceed in such manner as may be prescribed, to assess such dealer to tax to the best of his judgment in respect of the whole of such period and shall impose upon him by way of penalty a sum of two times of the amount of tax so assessed.

We observed in February 2011 in a case of one dealer, assessed in December 2009 for the period 2007-08, that penalty of ₹ 4.75 lakh was short levied by the AA. The AA imposed penalty of ₹ 4.75 lakh on the unregistered dealer which was equal to the amount of assessed tax instead of ₹ 9.50 lakh i.e. a sum of two times of the amount of tax so assessed as per Section 20 (6) of the MP VAT Act, 2002. After this was pointed out, the AA agreed to take action after verification.

We reported the cases to the Department and the Government in March 2012; their replies have not been received (March 2013).

[30] Neemuch.

2.16 Non/short levy of tax under the CST Act

Three regional offices[31], seven circle offices[32]

Under Section 8 of the CST Act, every dealer, who in the course of inter-state trade or commerce, sells goods to a registered dealer shall be liable to pay tax at the concessional rate of four *per cent* (three *per cent* w.e.f. 1 April 2007 and two *per cent* w.e.f. 1 June 2008) of such turnover provided such sales are supported by declarations in form 'C'. Further, as per the CST Act, every selling dealer who fails to furnish the declaration, duly filled and signed by the purchasing registered dealer in form 'C' obtained by the latter from the prescribed authority, shall be liable to pay tax in respect of inter-state sale of declared goods at twice the specified rate and in respect of other goods at the rate of 10 *per cent* or at the specified rate, whichever is higher, instead of concessional rate of tax.

2.16.1 We observed (between December 2009 and March 2012) in 13 cases of 12 dealers, assessed between October 2007 and March 2011 for the periods 2005-06 and 2008-09, that tax on inter-state sale of ₹ 3.86 crore in respect of which declarations in form 'C' were not furnished, was either not levied or was levied at incorrect rates. This resulted in non/short levy of tax of ₹ 31.78 lakh.

After we pointed out the cases, in one case demand was raised for ₹ 4.05 lakh (October 2010). In 11 cases of 10 dealers, the AAs stated that action would be taken after verification/examination, while in the remaining one case of one dealer the AA stated (May 2011) that bleaching powder is chemicals and is liable to be taxed at the rate of four *per cent*. We do not agree with the reply because bleaching powder is taxable at the rate of 12.5 *per cent* under residuary entry of the VAT Act, in view of the CCT's decision[33].

Two Circle Offices[34]

Under Section 6 A of the CST Act, exemption shall be allowed to a dealer who transfers the goods to another dealer, subject to the production of the prescribed form in the prescribed manner to the prescribed authority.

2.16.2 We observed (between January 2009 and September 2011) in two cases of two dealers assessed between January 2008 and June 2008 for the periods from 2005-06 to 2006-07 that tax on inter-State sale of ₹ 44.86 lakh in respect of stock transfer goods/goods moved from one state to another, was not levied although the declaration

31 Indore, Khandwa and Mandsaur.

32 Bhopal(2),Harda, Indore, Neemuch, Satna and Vidisha.

33 M/s Bhopal Bleaching Pvt. Ltd., Raisen (2007) 10 STJ 680 (CCT, MP).

34 Bhopal and Burhanpur.

forms F/E-I were not in the prescribed manner. This resulted in non levy of tax of ₹ 4.18 lakh as shown in the following table:

Sl. No.	Name of the unit No. of dealers	Period Month of assessment	Commodity Turnover (₹)	Rate of tax applicable (*per cent*)	Rate of tax applied (*per cent*)	Amount of non/short levy of tax (₹)
1.	CTO, Circle-V Bhopal M/s Ramtek Industries	2005-06 January 2008	Chemicals 29.65 lakh	10	-	2.96 lakh
The AA allowed incorrect deduction of stock transfer on the basis of 'F' form which contained transactions relating to more than one month. After this was pointed out, the AA raised demand for ₹ 2.96 lakh in October 2010.						
2.	CTO, Circle-Burhanpur M/s Madhuban Traders	2006-07 June 2008	Cotton Bales 15.21 lakh	8	-	1.22 lakh
Under Section 6(2) of the CST Act, the dealer furnished 'E-I' form no. MH-06-0020004 dated 21 May 2008 for ₹ 15.21 lakh which was valid for the period October 2007 to December 2007 in the financial year 2007-08 instead of 2006-07. Thus allowing of deduction was not in order. The AA stated that action would be taken after verification.						

We reported these cases to the Department and the Government between January and September 2012; their replies have not been received (March 2013).

2.17 Short levy of tax due to incorrect deduction

Two regional offices[35] and eleven circle offices[36]

According to Section 2(x) (iii) of MP VAT Act, 2002 and Section 2(w) (v) of MP *Vanijiyik Kar Adhiniyam*, 1994 taxable turnover is determined after deducting the amount of tax included in the aggregate of sale price. It also provides that no deduction shall be allowed if the amount of tax is not included in the aggregate of sale price.

We observed (between February 2009 and September 2011) in 13 cases of 13 dealers, assessed/ re-assessed between January 2008 and July 2010 for the period from 2004-05 to 2008-09, that the AAs, while determining the turnover, allowed deduction of tax of ₹ 21.63 lakh incorrectly although the tax was not included in the sale price. This irregular grant of deduction resulted in short levy of tax of ₹ 21.63 lakh including interest of ₹ 0.86 lakh.

[35] Morena and Shajapur.

[36] Bhopal (2), Damoh, Gwalior, Harda, Indore (2), Jabalpur (2), Khandwa and Neemuch.

After we pointed out the cases, the AAs, in two cases, raised additional demand of ₹ 6.58 lakh out of which ₹ 28,276 was adjusted towards available quantum of exemption of tax. In another nine cases, the AAs stated that action would be taken after verification while in the remaining two cases, the replies of the Department and our comments are as under:

Sl. No.	Name of the unit/ No. of dealers	Value of TTO (₹)	Rate of tax (%)	Tax leviable (₹)	Tax Levied (₹)	Amount of short levy (₹)	Department reply	Our commetns
1.	RAC Morena 1	5.47 crore	4	21.89 lakh	21.05 lakh	84,196	The AA stated that tax was charged by the assessee separately in the sale invoice and deduction under Section 2(x)(iii) was allowed as per rule.	We do not agree with the reply as no mention has been made regarding payment of tax separately in the accounts available on record.
2.	CTO-Circle, Damoh 1	33.65 lakh	12.5	4.21 lakh	3.74 lakh	46,742	The AA stated that the assessment was done as per the Act.	We do not agree with the reply as no mention has been made regarding payment of tax separately in the accounts available on record.

We reported the matter to the Department and the Government between February 2011 and March 2012; their replies have not been received (March 2013).

2.18 Non-levy of tax on sales incorrectly treated as tax free

One regional office[37] and two circle offices[38]

The MP VAT Act, read with the Central Sales Tax (CST) Act and notifications issued thereunder, prescribe rates of tax leviable on different commodities except those which are specified under Schedule I of the MP VAT Act or are exempted through notifications.

We observed (between April 2011 and September 2011) in three cases of three dealers, assessed between March 2010 and July 2010 for the period 2007-08, that tax on sale of commodities like woollen felt components, sealed water container and SIMMS Memory valued at ₹ 4.10 crore was not levied by the AAs incorrectly treating the same as tax free goods. This resulted in non-levy of tax of ₹ 19.96 lakh, details of which are as follows:

[37] Satna.

[38] Jabalpur and Neemuch.

(₹ in lakh)

Sl. No	Commodity	Turnover	Rate of tax applicable (%)	Amount of tax not levied
1.	Woollen Felt components	32.35	12.5	4.04
2.	Sealed water container	9.21	12.5	1.15
3.	SIMMS Memory	369.36	4	14.77
After we pointed out the cases, the AA in one case (Sl. No. 2) raised demand of ₹ 1.15 lakh while in the other two cases it was stated between April 2011 and September 2011 that action would be taken after examination. Further report has not been received (March 2013).				

We reported the matter to the Department and the Government between January and March 2012; their replies have not been received (March 2013).

2.19 Mistake in computation of tax

During test check of records of one DC office[39] and two circle offices[40] between September 2011 and October 2011, we observed that in cases of three dealers, assessed between November 2008 and June 2010 for the period 2005-06 to 2007-08, the AAs erroneously levied/adjusted tax of ₹ 2.15 lakh instead of ₹ 21.93 lakh. This resulted in short levy of tax of ₹ 19.78 lakh as shown below:

Sl. No.	Name of the unit No. of dealers	Period Month of assessment	Amount of tax leviable (₹)	Amount of tax levied (₹)	Amount of short levy of tax (₹)
1.	CTO, Circle-I, Bhopal 1	2007-08 June 2010	4.16 lakh	40,584	3.75 lakh
Tax on sale of sanitary items was incorrectly calculated at ₹ 40,584 instead of ₹ 4.16 lakh. This resulted in short realisation of tax of ₹ 3.75 lakh. On being pointed out, the AA stated that the audit observation was accepted and action would also be taken as per the Act.					
2.	DC, Div.-II, Indore 1	2007-08 May 2010	13.06 lakh	1.32 lakh	11.74 lakh
The AA, while finalising the assessment, raised additional demand for ₹ 1.32 lakh instead of ₹ 13.06 lakh. This resulted in short realisation of tax of ₹ 11.74 lakh. After this was pointed out, the AA stated that action would be taken after verification.					
3.	CTO, Khandwa 1	2005-06 November 2008	4.72 lakh	42,891	4.29 lakh
The AA incorrectly computed amount of tax as ₹ 42,891 instead of ₹ 4.72 lakh resulting in short realisation of tax of ₹ 4.29 lakh. After this was pointed out, the AA stated that action would be taken after verification. Further report has not been received (March 2013)					

We reported the matter to the Department and the Government between February and March 2012; their replies have not been received (March 2013).

[39] Indore.

[40] Bhopal and Khandwa.

2.20 Non-realisation of profession tax

According to the provisions of Section 3(2) of the Profession Tax Act, 1995, every person who carries on a trade either himself or by an agent or representative or who follows a profession or calling other than agriculture in Madhya Pradesh shall be liable to pay profession tax at the rates specified against the class of such persons in column (3) of the Schedule of the Act. Section 8(2) of the said Act further provides that such person liable to pay tax shall obtain a certificate of registration from the profession tax assessing authority in the prescribed manner.

On cross verification of information obtained from six circle offices[41] with the list furnished in respect of liquor licensees, cinema houses, video parlours and cable operators by the State Excise Department we found that 334 persons remained unregistered with the Commercial Tax Department under the Profession Tax Act, for the years 2009-10 and 2010-11, although they were liable to pay profession tax. This resulted in non-realisation of profession tax of ₹ 7.62 lakh at rates ranging from ₹ 1,000 to ₹ 2,500 per annum.

After this was pointed out, CTO, Khargone stated that action would be taken as per rules after issuing notices, while replies of other CTOs have not been received (March 2013).

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

[41] Guna, Harda, Khargone, Neemuch, Rewa and Vidisha.

CHAPTER - III

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present a Performance Audit on **"Collection of Excise receipts on liquor"** involving revenue implication of ₹ 49.19 crore and an illustrative case involving an amount of ₹ 11.81 lakh selected from observations noticed during our test check of records relating to assessment and collection of state excise revenue in the office of the District Excise Officers (DEOs)/Assistant Excise Commissioners (AECs), where we found non/short production of alcohol from molasses, irregular export/transport of foreign/country liquor, spirit, non-levy of penalty on inadmissible wastages of liquor during export/transport and manufacture and short levy of duty on foreign liquor/beer issued to Defence services etc. in which the provisions of the Acts/Rules were not observed. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.
Tax collection	In 2011-12 the collection of taxes from State excise increased by 19.79 *per cent* over the previous year which was attributed by the Department to the increase in execution amount through auction of liquor shops.
Very low recovery by the Department of observations pointed out by us in earlier years	During the period from 2006-07 to 2010-11 we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 669.44 crore in 53,614 cases. Of these, the Department/Government has accepted audit observations in 39,635 cases involving ₹ 421.34 crore and had since recovered ₹ 3.56 crore in 4,527 cases. The recovery position as compared to acceptance of objections was very low ranging from 0.25 *per cent* to 4.00 *per cent*.
Results of audit conducted by us in 2011-12	In 2011-12 we test checked the records of 26 units relating to State excise receipts and found under assessment, loss of revenue, non-levy of penalty etc. involving ₹ 115.18 crore in 3,661 cases. The Department accepted under assessment and other deficiencies of ₹ 49.16 crore in 1,791 cases, which were pointed out by us during the year 2011-12. An amount of ₹ 62 lakh was recovered in 1,190 cases during the year 2011-12.
Our conclusion	The Department needs to initiate immediate action to recover duty, penalty and annual fees not recovered/short recovered, more so in those cases where it has accepted our contention.

CHAPTER - III
STATE EXCISE

3.1 Tax administration

State Excise revenue comprises receipts from any payment, duty, fee, penalty or confiscation imposed or ordered under the provisions of the Madhya Pradesh Excise Act, 1915 and Rules made thereunder. It also includes revenue from manufacture, possession and issue of liquor for sale, *bhang* and poppy straw.

3.2 Cost of collection

The gross collection in respect of state excise, expenditure incurred on collection as furnished by the Excise Department and the percentage of expenditure to gross collection during the last five years along with the relevant all India average percentage of expenditure on collection to gross collection for the previous year are mentioned below:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the previous year
2007-08	1,853.83	396.04	21.36	3.30
2008-09	2,301.95	505.46	21.96	3.27
2009-10	2,951.94	818.34	27.72	3.66
2010-11	3,603.42	963.86	26.75	3.64
2011-12	4,316.49	1,032.14	23.91	3.05

(Source: Finance Accounts of the Government of MP and Information furnished by the Department)

The percentage of expenditure on collection of state excise is abnormally higher than the all India average percentage. We observed that in the Finance Accounts there is no separate minor head showing 'collection charges' as is available in case of other taxes like taxes on sales/trade, taxes on vehicles *etc.*, and the cost of liquor paid to the manufacturers had also been booked under the head "2039-State Excise" along with other expenditure.

After we pointed this out, the Excise Commissioner stated (May 2012) that the cost on collection after deduction of cost of liquor paid to the manufacturers remained between 1.61 and 1.90 *per cent* during the last five years which was less than the all India average percentage.

The Government may consider opening a separate sub-head 'collection charges' as is done for other taxes for effectively monitoring the functioning and the performance of the Department. Although this was pointed out in the Audit Report for the year ended 31 March 2011, no corrective measures were taken in this regard.

3.3 Impact of audit

During the period from 2006-07 to 2010-11, we have pointed out through Inspection Reports non/short levy, non/short realisation, underassessment/loss of revenue with revenue implication of ₹ 669.44 crore in 53,614 cases. Of these, the Department/Government had accepted audit observations in 39,635 cases involving ₹ 421.34 crore and had since recovered ₹ 3.56 crore (30 November 2012). The details are shown in the following table:

(₹ in crore)

Year of Inspection Reports	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2006-07	30	4,183	109.24	2,793	30.50	132	1.22	4.00
2007-08	40	12,185	88.06	9,520	24.73	504	0.39	1.58
2008-09	50	12,489	115.01	10,677	99.14	1,956	0.63	0.64
2009-10	36	10,606	201.88	7,566	167.51	1,271	0.42	0.25
2010-11	20	14,151	155.25	9,079	99.46	664	0.90	0.90
Total		**53,614**	**669.44**	**39,635**	**421.34**	**4,527**	**3.56**	

The amount recovered out of the accepted cases has been extremely low over the last five years.

The Government may consider devising a mechanism to ensure recovery at least in the accepted cases.

3.4 Results of audit

Test check of the records of 26 units relating to State Excise receipts during the year 2011-12 revealed underassessment, loss of revenue, non levy of penalty, etc. amounting to ₹ 115.18 crore in 3,661 cases which can be categorised as under:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	**"Collection of excise receipts on liquor" (A Performance Audit)**	**1**	**49.19**
2.	Loss of revenue in re-auction/auction of excise shops	7	0.94
3.	Non realisation of licence fee of excise shops	17	0.88
4.	Non recovery of penalty due to breach of licence conditions	1,326	0.21
5.	Other observations	2,310	63.96
Total		**3,661**	**115.18**

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 49.16 crore in 1,791 cases, which were pointed out in audit during the year 2011-12. An amount of ₹ 62 lakh was realised in 1,190 cases during the year 2011-12.

A Performance Audit on **"Collection of Excise receipts on liquor"** involving an amount of ₹ 49.19 crore and a case on non-levy of penalty with money value of ₹ 11.81 lakh are mentioned in the following paragraphs.

3.5 Performance Audit on "Collection of Excise receipts on liquor"

Highlights

- Penalty of ₹ 6.86 lakh was not imposed on short production of alcohol from molasses.

(Paragraph 3.5.9.3)

- Spirit/Foreign liquor involving excise duty of ₹ 875.38 crore remained unsecured as irregular export/transport was allowed by the Department without obtaining Bank Guarantee/Bond with solvent securities. Excise duty of ₹ 20.25 crore on unacknowledged liquor was also not recovered.

(Paragraph 3.5.14)

- Minimum penalty of ₹ 9.90 crore was not imposed and recovered from the licensees on wastage in excess of the admissible limit during export/transport of liquor.

(Paragraph 3.5.16)

- The labels of bottled country liquor were not got registered by the licensees, on which registration fee of ₹ 32.40 lakh was not realised. Manufacture of liquor without registration of labels was also irregular.

(Paragraph 3.5.20)

- Liquor was issued to 143 licensees despite the fact that the licensees of liquor shops had not deposited the fortnightly licence fee/last installment of annual license fee of ₹ 1.20 crore within the prescribed time.

(Paragraph 3.5.21)

- Excise Duty of ₹ 2.08 crore was short levied on issue of foreign liquor from Military canteen wholesale licensee to Military canteen retail licensees.

(Paragraph 3.5.22)

3.5.1 Introduction

"Liquor" means intoxicating liquor and includes spirits, wine, *tari*, beer, all liquids consisting of or containing alcohol and any substance which the State Government may by notification, declare to be liquor. There are eight Distilleries and seven Breweries in the State. Alcohol is produced in the distilleries from molasses and other bases like *Mahua* and grain etc. through fermentation and distillation. Country and foreign liquor is manufactured from alcohol through the process of blending, reduction, compounding and flavouring or colouring or both. Beer is manufactured from malt, grain, sugar, hops etc. in the breweries. The manufacture, distribution and sale of liquor is controlled by the Excise Commissioner under the provisions of the Madhya Pradesh Excise Act, 1915 (Excise Act) through annual licences granted by

him. Licences are renewable annually on the payment of the prescribed fee under the provisions of the Excise Act and the Rules made thereunder. Levy and collection of various kinds of duties and fees on production, possession, sale, export, import and transport of liquor in the State is governed under the Excise Act and Rules made thereunder. These are the main sources of revenue of the Excise Department.

We conducted a Performance Audit on the "Collection of Excise Receipts on Liquor" by the Excise Department which indicated a number of system and compliance deficiencies. These are mentioned in the succeeding paragraphs.

3.5.2 Organisational Set up

The Principal Secretary, Commercial Tax Department is the administrative head of the Department at the Government level. The Excise Commissioner (EC) is the Head of the Department and is assisted by one Additional Excise Commissioner (Addl. EC), three Deputy Excise Commissioners (DEC) at the headquarter at Gwalior, seven DEC divisional flying squad in divisions, 15 Assistant Excise Commissioners (AEC) and 54 District Excise Officers (DEO) in districts. In the district, the Collector heads the Excise Administration and is empowered to settle shops for retail vending of liquor and other intoxicants and is also responsible for realisation of excise revenue.

The working of distilleries, bottling plants (foreign liquor) and breweries is monitored by the DEOs with the assistance of the Asst. District Excise Officers (ADEOs) and Sub Inspectors posted in the distilleries/breweries and bottling plants.

3.5.3 Audit objectives

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

- fees/duties leviable on manufacture, possession and sale of spirit/liquor were realised in accordance with the provisions of various Acts/Rules;
- proper control over the raw material i.e. grain, molasses etc. used for production of alcohol was being exercised; and
- verification reports of export/transport of liquor were received from the importing State/State of MP and submitted to the Department by the exporter/transporter within the prescribed time limit.

3.5.4 Audit criteria

The audit criteria for conducting the Performance Audit were drawn from the following sources:-

- Madhya Pradesh Excise Act, 1915 (Excise Act);
- Madhya Pradesh Foreign Liquor Rules, 1996 (MPFL Rules);
- Madhya Pradesh Distillery Rules, 1995 (MPD Rules);
- Madhya Pradesh Country Spirit Rules, 1995 (MPCS Rules);
- Madhya Pradesh Breweries and Wine Rules (MPB&W Rules);

- Medicinal and Toilet Preparation (Excise Duties) Act, 1955 (M&TP ED Act); and
- Orders, circulars and notifications issued by EC/Government.

3.5.5 Scope of Audit

A Performance Audit on **"Collection of Excise Receipts on Liquor"** covering the period from 2002-03 to 2006-07 was incorporated in para 3.2 of the Audit Report (Revenue Receipts) for the year ended 31 March 2007, which was discussed by the Public Accounts Committee in February 2010. Their recommendations are awaited (March 2013). For the present Performance Audit, we test checked the records for the years 2007-08 to 2011-12 in 17[1] out of 50 district excise offices in the State and the EC's office between December 2011 and May 2012. For the test check, we selected 17 districts including all seven distilleries, three out of seven breweries and 12 out of 20 bottling units of foreign liquor by random sampling method. We also included cases of non/short levy of duty, penalty etc. which were noticed during the course of regular audit conducted for the period 2008-09 to 2011-12.

3.5.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Tax Department and its subordinate offices for providing necessary information and records for Audit. An entry conference for the performance audit was held in April 2012 with the Principal Secretary (Commercial Tax Department), EC and other executives of the Department where we informed them about the scope, objectives and methodology of Audit. The draft performance report was forwarded to the Government and the Department in August 2012. The exit conference was held in September 2012 in which the Principal Secretary represented the Government and the EC represented the Department. Responses of the Government/Department have been incorporated wherever received.

3.5.7 Trend of receipts

Actual receipts from State Excise during the years 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following table and line graph:

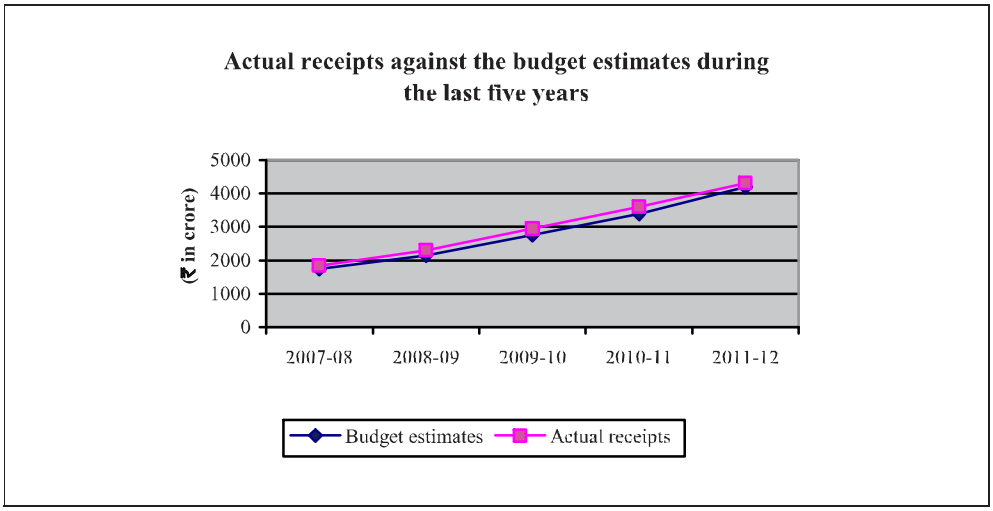
(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2007-08	1,750.00	1,853.83	(+) 103.83	(+) 5.93	12,017.64	15.43
2008-09	2,150.00	2,301.95	(+) 151.95	(+) 7.07	13,613.50	16.91
2009-10	2,760.00	2,951.94	(+) 191.94	(+) 6.95	17,272.77	17.09

[1] Ashok Nagar, Chhindwara, Dewas, Dhar, Gwalior, Indore, Jabalpur, Khargone, Mandsaur, Neemuch, Raisen, Rajgarh, Ratlam, Rewa, Sehore, Ujjain and Vidisha.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
2010-11	3,400.00	3,603.42	(+) 203.42	(+) 5.98	21,419.33	16.82
2011-12	4,050.00	4,316.49	(+) 266.49	(+) 6.58	26,973.44	16.00

(Source: Budget estimates and Finance Accounts of the Government of Madhya Pradesh.)



As seen from the above table, the revenue collection increased from ₹ 1,853.83 crore in 2007-08 to ₹ 4,316.49 crore in 2011-12. The collection from State excise increased by 19.79 *per cent* in 2011-12 over previous year. The Department attributed the increase in execution amount through auction of liquor shops. The percentage of variation between BEs and actuals ranged between 5.93 *per cent* and 7.07 *per cent* during 2007-08 and 2011-12 which indicated that the BEs were framed in a scientific manner. The percentage of contribution of State Excise receipts to the total tax revenue of the State ranged between 15.43 *per cent* and 17.09 *per cent* during 2007-08 and 2011-12.

3.5.8 Position of arrears of Excise revenue

The position of uncollected revenue as on 31 March 2012, as reported by the Department, amounted to ₹ 66.58 crore in 491 cases pertaining to the period from 1967-68 to 2011-12, of which ₹ 56.35 crore was outstanding for more than five years. The details are shown in the following table:

(₹ in crore)

Sl. No.	Particulars	No. of cases	Amount
1.	Cases forwarded to the Government for write off	91	15.70
2.	Cases pending for decision in various courts	23	5.26
3.	Cases pending in the District Excise Offices	377	45.62
Total		**491**	**66.58**

(Source: Information furnished by the Department)

The above table indicates that amount outstanding as arrears of revenue for more than five years constituted 84.64 *per cent* of the total outstanding amount.

We recommend that the Government may make efforts to ensure the recovery of the outstanding amount at the earliest.

Audit findings

System deficiencies

3.5.9 Non/short production of alcohol from molasses

The MPD Rules require the distillers to maintain minimum fermentable and distillation efficiencies at 84 and 97 *per cent* of fermentable sugar present in molasses and alcohol present in wash respectively. Every quintal of fermentable sugar present in molasses should yield 91.8 proof litre (PL) of alcohol. For this purpose, composite samples of molasses are required to be drawn by the Distillery Officer and sent for examination to the departmental laboratory. On the basis of the report furnished by the departmental laboratory, the Distillery Officer shall calculate the minimum quantity of alcohol which would have been produced by the distiller on the basis of prescribed norms. In case the distiller fails to maintain prescribed efficiencies and recovery of alcohol, the EC may impose penalty at the rate not exceeding ₹ 30 per PL up to 2 October 2008, ₹ 150 per PL from 3 October 2008 to 13 December 2011 and thereafter equal to duty leviable on country liquor at that time.

3.5.9.1 No time limit for furnishing of laboratory reports has, however, been fixed under the MPD Rules. We observed from the records relating to chemical test, stock register of molasses (D-5)[2] and alcohol production register (D-9)[3] of one distillery[4] in December 2011, that the distiller used 1,31,482 quintals of molasses in July, October, November 2010 and February 2011. The chemical test reports of molasses used from the departmental laboratory were not found on record even after lapse of periods of nine to 16 months from the date of sending of the samples to the laboratory. Hence, the quantity of alcohol that could have been produced could not be worked out in audit.

After we pointed this out, the DEO Distillery stated (December 2011) that production of alcohol would be checked on receipt of chemical test reports. Further report has not been received (March 2013).

The Department may consider prescribing a time limit for furnishing of laboratory reports and ensure production of alcohol according to the test reports of laboratory or initiation of penalty proceedings.

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2 D-5 register is maintained by the distillery to keep the record of molasses received, used and the balance.

3 D-9 register is maintained by the distillery to keep the record of production of alcohol from molasses used.

4 M/s Som Distillery Private Limited, Sehatganj, Raisen.

3.5.9.2 We observed (April and May 2012) from the molasses stock and issue registers (D-5) of two distilleries[5] in two districts[6] that 57,540.65 quintals of molasses was lying undisposed in the distilleries since August/September 2011. These molasses were capable of yielding 22.15 lakh[7] PL of alcohol in accordance with the percentage of fermentable sugar shown in the analysis report of molasses sample sent to the departmental laboratory on or just prior to the date from which the molasses were lying undisposed. Further it was noticed that in the case of one distillery, the EC allowed (October 2011) sale of 3,500 MT of molasses within a period of 60 days from the date of issue of the order of which only 550 MT of molasses could be sold. No reasons were found on record for non disposal of the balance quantity of 2,950 MT of molasses even after the lapse of four months beyond the stipulated time of 60 days. In case of the second distillery, no action was taken by the Department to dispose of 2,438.03 MT of molasses even after lapse of seven months. Thus, reduction in sugar content in the molasses due to passage of time could not be ruled out in audit.

After this was pointed out in audit, the EC stated that alcohol was being produced by the distillers mainly from rice, *Jawar* and *Bajra* at present. The RS/ENA was also imported from other States as per requirement. Therefore, there was no loss of revenue to the Government due to non production of alcohol from undisposed molasses. We do not agree as there was possibility of reduction in sugar content in the molasses with the passage of time, which has a direct impact on revenue.

3.5.9.3 We observed from the D-9 register and reports of the Departmental laboratory of two distilleries[8] in two districts[9] between May 2009 and April 2012 that the production of alcohol should have been 5,38,297.6 PL from 12,302.6 quintals of molasses used between April 2008 and February 2012. The actual production, however was 5,30,464.4 PL. However the DEOs (Distilleries) did not refer these cases to the EC for levy of penalty. This resulted in non-realisation of maximum penalty of ₹ 6.86 lakh[10].

After we pointed this out, the DEO M/s Agarwal Distillery, Khargone stated (April 2012) that action would be taken after examination. Further report has not been received (March 2013). DEO, M/s Vindhyachal Distillery, Rajgarh did not give any specific reply.

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5 M/s Gwalior Alcobrew Pvt. Ltd., Gwalior and M/s Associated Alcohol and Breweries Ltd., Khargone.

6 Gwalior and Khargone

7 24,380.30 qtl × 38.20 PL = 9,31,327.46 PL
33,160.35 qtl × 38.71 PL = 12,83,637.14 PL
57,540.65 qtl = 22,14,964.60 (22.15 lakh) PL

8 M/s Agarwal Distillery Khargone and M/s Vindhyachal Distillery, Rajgarh

9 Khargone and Rajgarh

10 3,431.7 PL × ₹ 80 = ₹ 2,74,536
2,070.3 PL × ₹ 30 = ₹ 62,109
2,331.2 PL × ₹ 150 = ₹ 3,49,680
7,833.2 PL ₹ 6,86,325 (₹ 6.86 lakh)

3.5.10 Short accounting of molasses

The Excise Act and Rules made thereunder do not provide any allowance on wastage/shortage of molasses in transit, storage or otherwise. The MPD Rules provide that every quintal of fermentable sugar present in molasses should yield minimum 91.8 PL of alcohol.

We observed from the D-5 and D-9 registers in one distillery[11] in December 2011 that 2,203 quintals of molasses were shown as transferred from D-5 to D-9 register on 1 February 2011. However, in the D-9 register only 2,202 quintals were shown as transferred. As a result, production of 40.5 PL[12] alcohol that would have been produced from one quintal of molasses was not accounted for. Besides, against the stock of molasses, which was 1,21,219.05 quintals on 31 March 2011, only 1,20,464.65 quintals were carried forward in the stock register on 1 April 2011. Thus 754.4 quintals of molasses was not accounted for, from which 30,553.2 PL of alcohol could be produced. Thus, the Government was deprived of minimum duty of ₹ 48.95 lakh[13] on 30,593.7 PL (40.5 PL + 30,553.2 PL) of alcohol.

After we pointed this out, the DEO Distillery stated (December 2011) that the shortage was due to clerical mistake. We do not agree as the effect of short accounting was not found to have been rectified during subsequent verification in audit in December 2011.

3.5.11 Short levy of *Ahata/Shop bar* licence fee

MPFL Rules provide for levy of annual licence fee on FL-1B licence* (*Ahata/shop bar licence*) adjacent to an FL-1 licence** equivalent to two *per cent* of the annual value of the FL-1 shop which shall be the sum of basic licence fee and annual licence fee. Further, the condition of sale of liquor through shops provides for adjustment of licence fee of up to 20 *per cent* from country liquor to foreign liquor shop or *vice versa*.

* The licence, which may be granted to an FL-1 or FL 1A licensee only, shall permit consumption of foreign liquor within any premises or *AHATA* which shall be adjacent to the premises of FL-1 or FL-1A licensee

** Licence for retail sale of foreign liquor in sealed bottles

The conditions for sale of liquor shops do not provide for recovery of the difference of annual licence fee for *Ahata* licence adjacent to an FL-1 shop in case of adjustment of licence fee from country liquor to foreign liquor shop. We observed from *Ahata* licences issue register in four AECs/ DEOs[14]

11 M/s Som Distillery Private Limited, Sehatganj, Raisen

12 44.12 *per cent* fermentable sugar was present in one quintal molasses
Yield of alcohol= 44.12×91.8/100= 40.5 PL

13 30,593.7 PL × ₹ 160 = ₹ 48,94,992 (₹ 48.95 lakh)

14 AEC Indore, Jabalpur and Rewa and DEO Mandsour

between December 2011 and February 2012 that licence fee of ₹ 5.72 crore of 22 country liquor shops was adjusted to foreign liquor shops during 2009-10 to 2011-12. As a result of the adjustment, the annual value of FL-1 shops was required to be revised from ₹ 40 crore to ₹ 45.72 crore and the licence fee of *Ahata* licences was to be determined at the rate of two *per cent* of such revised annual value of shops. However, in the absence of enabling provisions, the licence fee at enhanced annual value which worked out to ₹ 91.45 lakh against the licence fee of ₹ 80.08 lakh levied could not be levied.

After we pointed this out, the AECs/DEOs stated between December 2011 and February 2012 that the *Ahata* licences were issued after depositing the amount of two *per cent* of prescribed annual value of shops as required in the rules. The adjustment was effected after the issue of licences.

The Department may, therefore, consider prescribing a condition in the policy to be issued for sale of liquor shops each year to recover the difference of annual licence fee of *Ahata* licence adjacent to an FL-1 shop in case of adjustment of licence fee from country liquor to foreign liquor shop.

3.5.12 Non-fixation of norms for yield of wort[15]

MPB&W Rules, do not lay down any norm for yield of wort. Para 243 of the Technical Excise Manual (TEM)*, however provides that 36 gallons of wort is obtainable from 84 pounds of malt or 56 pounds of sugar.

* A reference book brought out in accordance with the orders of the Government of India for the use of Excise Officers in India.

We observed from records related to beer production of a brewery[16] in Raisen district and information furnished by two breweries[17] situated in Indore district, that 1,77,316.51 quintal malt and rice flake and 24,816.45 quintal sugar were used during the period between September 2010 and November 2011 which yielded 827.62 lakh bulk litre (BL) wort as against possible yield of 922.49 lakh BL in accordance with the provisions of the TEM. Short production of 90.13 lakh BL of beer after considering wastage allowance of 4.74 lakh BL resulted in loss of excise duty of ₹ 12.75 crore[18].

After we pointed this out, the EC stated that the percentage of alcohol present in strong and light beer is different and in this condition the quantity of beer produced from malt/sugar cannot be equal. Therefore, it was not possible to prescribe the norms for yield of beer. Besides, the TEM was not approved by the Government. Therefore, the Department was not legally bound to follow

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15 "Wort" is defined as the liquor obtained by the exhaustion of malt or grain by solution of saccharine matter in the process of brewing. It is a sugary solution, prepared from a fermentative base and water in which fermentation has not started

16 M/s Som Distillery and Breweries Ltd., Raisen

17 M/s Mount Everest Breweries Ltd., Indore, M/s M.P. Beer Products, Indore

18 83,20,089 BL × ₹ 13.46 = ₹ 11,19,88,398
6,92,359 BL × ₹ 22.45 = ₹ 1,55,43,460
90,12,448 BL ₹ 12,75,31,858 (₹ 12.75 crore)

the TEM. The fact remains that control by the Department over the production of beer is necessary in order to prevent the leakage of revenue due to the State. **The Government may therefore consider prescribing norms for yield of wort from malt, rice, flake, sugar etc. in MP Beer and Wine Rules.**

3.5.13 Working of Internal Audit Cell

An Internal Audit Cell (IAC) was established in the EC office in the year 1978. It is headed by a Joint Director from the MP Finance Service and six officers from the Treasury and Accounts Department, MP have been posted on deputation basis. The work of Internal Audit is conducted by this Cell. The sanctioned and working strength of the Cell is shown in the table given below:-

Year	Sanctioned strength	Working strength
2007-08	6	6
2008-09	6	6
2009-10	6	6
2010-11	6	5
2011-12	6	5

According to the roster describing the Annual Audit Plan, audit of 48 to 50 units was to be conducted each year during the period from 2007-08 to 2011-12. The details of units planned, audited and number of observations raised, settled and outstanding are given as under:

Year	No. of units as per roster	Number of units audited	Shortfall with reference to roster	Percentage of shortfall	No of paras included	No of paras settled	Out standing paras
2007-08	48	27	21	43.75	44	-	44
2008-09	48	38	10	20.83	50	-	50
2009-10	48	26	22	45.83	14	-	14
2010-11	50	41	09	18.00	60	07	53
2011-12	50	16	34	68.00	64	12	52

Thus, the targets fixed were not achieved by the IAC of the Department in any of the five years between 2007-08 and 2011-12. In addition, the details about the money value involved in the objections raised by the internal audit and amount recovered etc. were not available with the IAC.

After we pointed this out, the EC stated (January 2013) that due to shortage of staff and preoccupation with other work, audit could not be conducted as prescribed in the roster. We do not agree as there was no vacancy for three years (2007-08 to 2009-10) and in the remaining two years only one out of six posts was vacant. Besides, internal audit was the primary work of IAC and constituted a vital component of the internal control mechanism which should not have been ignored due to preoccupation of staff with other work.

Compliance deficiencies

3.5.14 Irregular export /transport of foreign liquor/spirit and non realisation of excise duty on unacknowledged liquor/spirit

3.5.14.1 Export/transport of RS[19]/ ENA[20]

According to MPD Rules, the removal of spirit from a distillery to another distillery or liquor warehouse or bottling unit or any other industrial unit within or outside the State of MP shall be without payment of duty subject to execution of a bond in form D-2 by the seller licensee with adequate solvent sureties for the payment as prescribed by the EC. The licensee shall obtain an excise verification certificate (EVC) from the officer in-charge (OIC) of the destination unit and furnish it to the authority who issued the export/transport permit within 40 days of the expiry of validity period of permit. If the licensee fails to do so, the amount prescribed by the EC shall be recoverable from the security bond executed. The EC has prescribed the amount recoverable as under:

(i) In case of export/transport of RS for manufacture of country liquor, it shall be equal to maximum duty payable on country liquor in MP.

(ii) In case of export/ transport of ENA for manufacture of foreign liquor or for any other purpose, it shall be equal to the maximum duty payable for foreign liquor in MP at that time.

We observed from the Export/Transport Register in seven distilleries[21] of five districts[22] between December 2011 and May 2012 that the licensees exported/ transported 2,74,88,292.9 PL of RS and 1,41,92,595 PL of ENA on 1,444 permits between April 2011 and March 2012 involving excise duty of ₹ 703.51 crore[23] without payment of duty or executing bond in form D-2 with adequate solvent sureties. Thus the mechanism prescribed to safe guard the revenue interest of state was compromised and left at the will of the licensees. It was further seen that no such records or periodical returns for keeping a watch over

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19 Rectified Spirit.

20 Extra Neutral Alcohol.

21 M/s Great Galleon Ltd. Dhar, M/s Oasis Distillery Ltd. Dhar, M/s Gwalior Alcobrew Pvt. Ltd. Gwalior, M/s Associated Alcohol & Breweries Ltd. Khargone, M/s Agrwal Distillery Ltd. Khargone, M/s Vindhyachal Distillery, Rajgarh and M/s Som Distillery Pvt. Ltd. Raisen.

22 Dhar, Gwalior, Khargone, Rajgarh and Raisen.

23 2,74,88,292.9 PL × ₹ 80 = ₹ 2,19,90,63,432
1,41,92,595 PL × ₹ 340.74 = ₹ 4,83,59,84,820
₹ 7,03,50,48,252 (₹ 703.50 crore)

execution of bond with reference to export or transport of RS/ENA and receipt of verification reports thereof have been prescribed.

After we pointed out the cases, the DEO, M/s Great Galleon Limited, Dhar, stated (April 2012) that action would be taken on receipt of directions from higher authorties. DEOs of other distilleries, except that of Gwalior district stated between December 2011 and April 2012 that the Audit would be intimated after execution of bond on form D-2. DEO M/s Gwalior Alcobrew Private Limited, Gwalior stated (May 2012) that bonds had been executed in form D-2. We do not agree as the Act provide for execution of a bond in form D-2 and as such there was no need of obtaining direction from higher authorities. Besides, the bonds with adequate solvent sureties were not executed before the export/transport of spirit was allowed.

3.5.14.2 We observed from the export/transport register and EVCs in three distilleries[24] in three districts[25] between July 2011 and April 2012 that the licensees exported/transported 82275.5 PL of RS/ENA on seven permits during the period between September 2010 and July 2011 involving excise duty of ₹ 3.45 crore without payment of duty or executing a bond in Form D-2 with adequate solvent sureties. Though the EVCs of receipt of quantity of RS/ENA so exported/transported were not received from the destination units within the prescribed time limit, the DEOs (Distilleries) did not take any action for recovery of the duty even after lapse of 157 to 383 days beyond the permissible period of 40 days. Further, the distillery officers did not check the bond in form D-2 before issuing the permit for export/transport of RS/ENA. They did also not maintain the register to check whether the EVCs were received within the prescribed time limit. This resulted in non-realisation of revenue of ₹ 3.45 crore[26].

After we pointed out the cases, the DEOs (Distilleries) stated between July 2011 and April 2012 that verification reports would be submitted on their receipt. We do not agree as the Department failed to recover the duty in case of non receipt of verification reports within the prescribed time limit.

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[24] M/s Gwalior Alcobrew Pvt. Ltd. Gwalior, M/s Associated Alcohol & Breweries Ltd. Khargone and M/s Cox India Ltd. Chhatarpur.

[25] Chhatarpur, Gwalior and Khargone.

[26]
20,160 PL × ₹ 681	= ₹ 1,37,28,960
60,480 PL × ₹ 340.70	= ₹ 2,06,05,536
835.5 PL × ₹ 160	= ₹ 1,33,680
800 PL × ₹ 80	= ₹ 64,000
	₹ 3,45,32,176 (₹ 3.45 crore)

3.5.14.3 Export/transport of foreign liquor/beer/bottled country liquor

The Excise Act and the Rules made thereunder provide that no intoxicant shall be exported/transported from any distillery, brewery, warehouse or any other place of storage unless the licensee deposits the prescribed duty leviable on the full quantity of the intoxicant to be transported/exported or furnishes a bank guarantee of an equal amount or executes a bond with adequate solvent sureties for the amount mentioned in form FL- 23. Besides, the licensee shall obtain an excise verification certificate (EVC) from the Officer-In-Charge (OIC) of the destination unit and furnish to the authority, who issues the transport/export permit, within 40 days of the expiry of validity period of the permit. In case of default, the duty involved shall be recovered from the deposit made, bank guarantee furnished or the security bond executed. Further, the Government vide notification dated 29 September 2010, provided that if the EVC is submitted after the stipulated 40 days time period, the recovered duty shall be refunded to the exporter after due verification.

We observed from the Export/Transport register, in seven bottling units[27] and two breweries[28] of five districts[29] between November 2011 and May 2012 that the licensees exported/transported 23,71,102 cases of bottled foreign liquor (Spirit) and 30,74,165 cases of beer on 7,738 permits between October 2010 and March 2012 involving duty of ₹ 171.87 crore. It was noticed that in violation of the provision, the Department issued the export/transport permits without recovering the prescribed duty or obtaining the bank guarantee or bond with adequate solvent sureties for the amount of duty involved. Thus, the mechanism prescribed to safeguard the revenue interest of state was compromised and left at the will of the licensees.

After we pointed out the cases, the OIC of M/s Silver Oak India Ltd., Dhar and M/s Vindhyachal Distillery, Rajgarh stated in March and May 2012 that Audit would be intimated after furnishing of bank guarantee or execution of bond. The Distillery Officers of M/s Great Galleon Ltd., Dhar, M/s Gwalior Alcobrew Pvt. Ltd., M/s Radico Khaitan Ltd. and M/s A.B.D. Ltd., Gwalior stated in April and May 2012 that bonds were being executed. We do not agree as the bonds with solvent sureties were to be executed before the export/transport of liquor was allowed.

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27 M/s Great Galleon Ltd., Dhar, M/s Silver Oak India Ltd, Dhar, M/s Gwalior Alcobrew Pvt. Ltd., Gwalior, M/s Radico Khaitan Ltd., Gwalior, M/s A.B.D. Ltd., Gwalior, M/s Vindhyachal Distillery, Rajgarh and M/s Som Distillery & Breweries Ltd., Raisen.

28 M/s Som Distillery & Breweries Ltd., Raisen and M/s Mount Everest Breweries Ltd., Indore.

29 Dhar, Gwalior, Indore, Rajgarh and Raisen.

3.5.14.4 We observed from the Export/transport permit registers and EVCs received registers in 12 bottling units[30] of foreign liquor, three breweries[31] and two central godowns[32] for outside manufacture (FL-10A) and one country liquor bottling unit (CS-1A)[33] of eight districts[34] between May 2011 and May 2012 that the licensees exported/transported 13,46,966.95 PL foreign liquor (spirit), 8,84,919.72 BL beer and 11,250 PL of bottled country liquor on 522 permits between March 2010 and March 2012, which involved duty of ₹ 16.80 crore. Though the verification reports of receipt of quantity of liquor so exported/transported were not received from the destination units within the prescribed time limit, the Department did not initiate any action for adjustment of duty against the bank guarantee or bond even after a lapse of two to 450 days after the permissible period. This resulted in non-realisation of revenue of ₹ 16.80 crore as detailed in **Annexure 'II'**.

After we pointed out the cases, AECs/DEOs stated in 517 cases between May 2011 and April 2012 that verification reports would be submitted on their receipt. In respect of five cases of Bhopal and Chhatarpur districts, it was stated that verification reports had been received. We do not agree as the duty was recoverable in all these cases as verification reports were not received within the prescribed period, for which the Department did not take any action.

3.5.15 Non-levy of penalty for non-maintenance of minimum stock

According to MPD Rules, a distiller is required to maintain the prescribed minimum stock of spirit at the distillery. In the event of failure, the EC may impose a penalty not exceeding one rupee per BL on the quantity found short of the minimum prescribed stock irrespective of the fact whether any loss has actually been caused to the Government or not. The distillery officer is required to intimate the cases of shortage of spirit against the prescribed quantity to EC in each quarter for levy of penalty and effective monitoring of such cases.

We observed from Spirit stock and issue registers of two distilleries[35] in two districts[36] in April 2012 that the distillers did not maintain the prescribed minimum stock of spirit on 83 occasions between July 2009 and January 2012. The DEOs, however,

30 M/s United Spirit Ltd. (FL-9& 9A) Bhopal, M/s Jublee Breweres Ltd. Bhopal, M/s Oasis Distillery Ltd. Dhar, M/s Great Galleon Ltd., Dhar, M/s Gwalior Alcobrew Pvt. Ltd., Gwalior, M/s Vinayak Distillery Pvt. Ltd. Gwalior, M/s Parnard Recard India Pvt. Ltd.(FL-9, 9A) Gwalior, M/s Som Distillery & Breweries Ltd. Raisen, M/s Som Distillery Pvt. Ltd. Raisen, M/s Redson Distillery, Jabalpur, M/s Diageo India Pvt. Ltd. Khargone and M/s Associated Alcohol & Breweries Ltd. Khargone.

31 M/s Mount Everest Breweries Ltd, Indore, M/s Som Distillery & Breweries Ltd. Raisen and M/s Jagpin Breweries Ltd. Chhatarpur.

32 M/s Parnard Recard India Pvt. Ltd. Gwalior and M/s United Spirit Ltd. Bhopal.

33 M/s Som Distillery Pvt. Ltd. Raisen.

34 Bhopal, Chhatarpur, Dhar, Gwalior, Indore, Jabalpur, Khargone and Raisen.

35 M/s Agarwal Distillery Khargone and M/s Oasis Distillery Ltd., Dhar.

36 Dhar and Khargone.

failed to take up the matter with the EC for levy of penalty of ₹ 9.09 lakh on spirit found short of the minimum prescribed stock of 27.93 lakh BL. This resulted in non-imposition of maximum penalty of ₹ 9.09 lakh.

After we pointed this out, the DEO, Khargone, stated (April 2012) that a show cause notice had been isuued to the distiller. DEO, Dhar, stated (April 2012) that the cases of non-maintenance of minimum stock would be sent to the EC for necessary action. Further replies have not been received (March 2013).

3.5.16 Non-levy of penalty on inadmissible wastages

The excise Act and Rules made there under provide that the maximum wastage allowance for all exports of bottled foreign liquor/beer, shall be 0.25 *per cent* irrespective of the distance. For all transports, it shall be 0.1 *per cent* if the selling and purchasing licensees belong to the same district and 0.25 *per cent* if they belong to different districts. In case of export of bottled country liquor it shall be 0.25 *per cent* and for transport it shall be 0.5 *per cent* irrespective of the distance. Further according to the amendment made by the State Government dated 12 January 2012 it shall be 0.1 *per cent* in case of transport in pet bottle and 0.25 *per cent* in glass bottle with effect from 1 April 2011. In case of RS/ENA, the Rules allow wastage of 0.1 to 0.2 *per cent* on account of leakage or evaporation of spirit/ENA transported or exported in tankers from a distillery/ warehouse to another distillery/warehouse according to their distance. In case of wastage beyond the permissible limit the licensee shall be liable to pay penalty at a rate prescribed by the Government from time to time.

We observed from EVCs in four foreign liquor warehouses[37], five foreign liquor bottling units[38], two breweries[39], three distilleries[40] and seven country liquor warehouses[41] of 12 districts[42] between August 2011 and May 2012 that the wastages of 80,118.14 PL foreign liquor (spirit), 67,892.58 BL beer, 24,221.66 PL country liquor and 40,599.49 PL RS/ENA was found to be in excess of the admissible limit during export/ transport during the period between May 2009 and March 2012 in 5,669 cases on which minimum penalty of ₹ 10.02 crore was leviable as detailed in the following table:

37 Gwalior, Jabalpur, Rewa and Ujjain

38 M/s United Spirit Ltd., Govindpura, Bhopal, M/s United Spirit Ltd., Sarver, Bhopal, M/s Gwalior Alcobrew Pvt. Ltd., Gwalior, M/s Parnard Recard India Ltd., Gwalior and M/s Oasis Distillery, Dhar

39 M/s Mount Everest Breweries Ltd., Indore and M/s Som Distillery and Brewereies Ltd., Raisen

40 M/s Som distillery Pvt. Ltd., Raisen, M/s Gwalior Alcobrew Pvt. Ltd., Gwalior and M/s Oasis Distillery, Dhar

41 Balaghat, Badwah, Dabra, Gwalior, Sehore, Sheopur and Vijaypur

42 Balaghat, Bhopal, Dhar, Gwalior, Indore, Jabalpur, Khargone, Raisen, Rewa, Sehore, Sheopur and Ujjain

(₹ in crore)

Nature of liquor	Quantity Exported/ transported (PL/BL)	Quantity received at other end (PL/BL)	Difference (PL/BL)	Permissible wastage (PL/BL)	Excess wastage (PL/BL)	Penalty
Foreign liquor (Spirit)	1,31,04,323.74	1,29,91,647.37	1,12,676.36	32,558.22	80,118.14	7.63
Beer	1,20,04,309.2	1,19,06,405.91	97,903.29	30,010.70	67,892.58	0.57
Country liquor	63,86,491.75	63,53,110.28	33,381.47	9,159.80	24,221.66	0.63
RS/ ENA	42,75,082.10	42,31,732.31	43,349.39	2,749.90	40,599.49	1.19
Total						**10.02**

It was, however, seen that an amount of ₹ 11.94 lakh only was recovered in Jabalpur and Rewa districts. The Department did not take any action to impose the balance amount of penalty of ₹ 9.90 crore. This resulted in non realisation of revenue of ₹ 9.90 crore.

3.5.17 Non levy of penalty on inadmissible wastages in manufacture of foreign and country liquor

The Excise Act and rules made thereunder, provide an allowance on wastage in blending operations during manufacture of foreign liquor/country liquor at the rate of one *per cent* of the quantity of RS/ENA added to the blending vat. In case of wastages beyond the permissible limit, the licensee shall be liable to pay penalty at a rate exceeding three times but not exceeding four times the duty payable on country liquor at that time up to 13 December 2011 and thereafter not exceeding the amount of duty payable at that time.

We observed from the liquor manufacturing registers in three country liquor warehouses[43] and one foreign liquor bottling unit[44] between June 2011 and March 2012 that 18,76,575.63 PL of RS/ENA was added to the blending vats for manufacturing of liquor during the period between March 2009 and October 2011 in 518 cases. Of this, 21,142.14 PL was shown as blending wastage. Thus, against the permissible limit of 18,765.7 PL excess wastage of 2,376.44 PL was allowed, on which minimum penalty of ₹ 10.63 lakh was leviable. It was, however, seen that no penalty was imposed and recovered by the Department. This resulted in non-realisation of penalty of ₹ 10.63 lakh as detailed in **Annexure 'III'**.

After we pointed out the cases the DEO Rajgarh stated in March 2012 that the wastages are in the limit of 2.5 *per cent.* We do not agree as the wastages at the rate of one *per cent* is allowed separately in blending operation and penalty shall be leviable in case of wastages beyond this limit. Replies in the remaining cases have not been received (March 2013).

[43] Damoh, Narsingarh and Pilukhedi.

[44] Som Distillery Pvt. Ltd., Raisen

3.5.18 Non-realisation of excise duty due to non-disposal of liquor

The Excise Act and Rules made thereunder provide that on expiry, non-renewal and cancellation of licence or labels, the licensee shall place the entire stock of spirit/liquor under the control of the DEO. He can, however, be permitted to dispose of such stock to any other licensee within 30 days of such expiry, non-renewal and cancellation of licence or labels, failing which the EC may ask any other eligible licensee of the State to purchase such stock or may issue orders for the disposal of the stock through destruction etc.

We observed from the Stock and Issue register in country liquor warehouse Ujjain and foreign liquor warehouse Sagar between November 2011 and January 2012 that no action was taken by the Department to dispose of the stock of 13,104.10 PL of foreign liquor and 7,246.40 PL of RS lying undisposed in the warehouses due to non-renewal of 13 labels of foreign liquor w.e.f. from April 2009 and discontinuation of bottling of country liquor w.e.f. 1 April 2011 even after lapse of periods ranging from 11 to 25 months. The disposal could not be done in most of the cases as orders were not released by the EC. This resulted in non-realisation of revenue of ₹ 21.62 lakh as detailed in the table below:

(₹ in lakh)

Name of manufacturer	Since when pending	Quantity of liquor (PL)	Duty
M/s Alcobrew Distillery India Pvt. Ltd. (FL-9A)	01.04.2009	1,391.24	1.94
M/s Gold Waters Breweries Pvt. Ltd. (FL-9)	01.04.2009	4,516.23	3.90
M/s Mansons & Summers Pvt. Ltd. (FL-9A)	01.04.2009	2,504.59	3.42
M/s S.G. Distilleries Ltd. (FL-9)	01.04.2009	2,164.68	2.18
M/s Diageo Radico Distiller Pvt. Ltd. (FL-9A)	01.04.2009	2,527.36	4.38
Country liquor warehouse, Ujjain	01.04.2011	7,246.40 (RS)	5.80
Total			21.62

3.5.19 Non installation of flow-meter in distillery

Under the MPD Rules the distillery licensee shall provide for use in measuring spirit in the distillery and at the time of issue, such measures, gauging machine, weighing machine and other appliances as the EC may direct him to provide. EC in his circular dated 29.12.2006 prescribed to install a flow-meter duly sealed by the officer authorised by the Controller, Weights and Measure.

We observed from records of plant and machinery and instruments in M/s Vindhyachal Distillery, Pilukhedi of district Rajgarh in March 2012 that the licensee did not install flow-meter in the distillery. The DEO (Distillery) did not take any action against the licensee for non-installation of flow-meter. We further noticed that the measurement was being done through gauging rod which only gives an

approximate value and as such we found difference in measurement value at two ends i.e. one at the distillation end (D-1) and the other at the foreign liquor bottling unit (FL-9) located within the same premises of the licensee on 40 occasions.

After we pointed out the cases, the DEO Rajgarh stated that the gauging of each storage vat in distillery had been done and the measurement of spirit at the time of issue was being conducted by gauging rod which was correct. The flow-meter would be installed on requirement. The reply is not in consonance with the rules and orders of EC and also the measurement through gauging rod had given different measurement values. Further report has not been received (March 2013).

3.5.20 Non realisation of revenue due to non-registration of labels of country liquor

MPCS Rules provide that only such bottles of country liquor with labels showing legends/details as specified, duly registered by the EC may be sold in, transported within, imported into or exported from MP. The labels registered for each bottling unit shall be renewed every year. No label shall be used by any manufacturer unless it has been duly registered or renewed. The registration fee of ₹ 10,000 at the time of first registration and registration renewal fee of ₹ 1,000 for every financial year or part thereof, for each label of country liquor separately, packing material-wise, according to usage and containers capacity-wise, has been prescribed by the State Government from 1 April, 2011 under notification of January 2011.

We observed from the Label Registration register in the EC office in May 2012 that the licenses (CS-1B) for bottling of country liquor in 27 warehouses[45] were issued and the bottled country liquor was transported from five warehouses in April 2011, 18 warehouses in April and May 2011 and four warehouses during the whole year of 2011-12 by using 324 labels (12 labels in each warehouse). It was, however, seen that these labels were not got registered by the licensees for the above bottling units and as such, registration fee of ₹ 32.40 lakh[46] was not realised. Besides, the bottling and transportation of liquor, using the unregistered labels, was irregular.

After we pointed this out, the EC stated (May 2012) that the CS-1B licences were issued for bottling of country liquor in country liquor warehouses during the period from 1 April 2011 to 31 May 2011 as proper arrangement for bottling of country liquor was not available in some distilleries. It was stated that it would not have been proper to levy the registration fee separately for

[45] Barwah, Badwani, Balaghat, Betul, Burhanpur, Chindwara, Damoh, Dhar, Indore, Jabalpur, Jhabua, Katni, Khandwa, Khargone, Mahu, Mandla, Mandsaur, Narsinghgarh, Narsinghpur, Rewa, Sagar, Satna, Seoni, Shahdol, Shajapur, Shivpuri and Sidhi

[46] 324 × ₹ 10,000 = ₹ 32,40,000 (₹ 32.40 lakh)

bottling in each warehouse during April and May 2011 under CS-1B licence. We do not agree as according to the rules, the registration of labels for each bottling unit is required separately. However, the EC's reply was silent in regard to licences issued for bottling in four warehouses[47] for the whole year.

3.5.21 Non-realisation of duty on irregular issue of liquor

The conditions of sale of liquor through shops for the years 2009-10, 2010-11 and 2011-12 issued by the EC provide that the annual licence fee of liquor shops shall be paid by the licensees in 24 fortnightly installments on due dates as prescribed therein. It is further provided in the notifications that the last installment must be deposited by 25 March of the year and liquor would be issued up to 27 March, failing which liquor will not be issued on the amount deposited. Further departmental instructions (December 2008) provide that issue of liquor against the installment of annual licence fee deposited after the due date is illegal and duty along with interest shall be recovered in such cases. The rate of interest was, however, not mentioned in these instructions.

We observed from the records {Demand and Collection registers of licence fee (G-2)}, challans and liquor issue registers} of two DEOs[48] between June 2011 and September 2011 that 11 licensees of liquor shops had deposited the prescribed fortnightly licence fee of ₹ 15.68 lakh after the due dates. We further observed that 44 licensees of liquor shops of three districts[49] had deposited an amount of ₹ 37.17 lakh after 25 March 2010 and 2011. As such, issue of liquor in these cases was not admissible but it was issued. Besides, 87 licensees deposited an amount of ₹ 63.42 lakh before 25 March 2010 and 2011 but the liquor was issued after 27 March of the year. In one case of Shivpuri district one licensee deposited ₹ 3.30 lakh on 28 March 2011 and liquor was issued on 6 May 2011 (i.e. in the subsequent year). This resulted in irregular issue of liquor involving duty aggregating to ₹ 1.20 crore.

After we pointed out the cases, the DEO, Damoh stated (June 2011) that the issue was allowed in the interest of revenue and there was no loss of revenue to the Government. DEO, Datia stated (September 2011) that the issue was done by the Warehouse Officer with the permission of DEO. DEO, Ratlam stated (January 2012) that the issue of liquor was allowed to meet the requirement of the licensee for the remaining part of the year and there was no loss to Government. AEC, Gwalior and DEO, Rajgarh stated (between October 2011 and March 2012) that the complete licence fee was not deposited by the licensees up to 25 March 2010 and the issue of liquor was not completed up to 26 March 2010 and, therefore, it was issued in subsequent dates. DEO, Shivpuri stated (May 2012) in regard to issue of liquor in the

47 Balaghat, Chhindwara, Khandwa and Shivpuri.

48 Damoh and Datia.

49 Rajgarh, Ratlam and Shivpuri.

subsequent year that the issue was allowed with the permission of the EC. We do not agree as the issue of liquor was not permissible after 27 March of the year and also on the amount, which was deposited after due dates.

3.5.22 Short levy of duty on foreign liquor/beer issued to Defence services

According to the conditions of sale of liquor through shops for the year 2010-11 issued by EC under notification dated 28 January 2010, foreign liquor shall be issued to the Defence services on payment of duty at the rate of 30 *per cent* for rum and 50 *per cent* for other foreign liquor leviable for civilians.

We observed from the stock and issue register of FL-6[50] licensee of Jabalpur district in December 2011 that 1,54,412 cases of 54 labels of foreign liquor (Spirit and Beer) were issued to FL-7[51] licensees during the period from April 2010 to November 2010 on payment of duty of ₹ 8.62 crore while the actual duty leviable was ₹ 10.70 crore. This resulted in short levy of duty of ₹ 2.08 crore as shown in **Annexure 'IV'**.

After we pointed this out, the AEC Jabalpur stated (February 2012) that notices had been issued to the licensees for recovery. Further report has not been received (March 2013).

3.5.23 Short recovery of annual licence fee

The notifications for sale of liquor in liquor shops for the years 2009-10 and 2010-11, issued by the EC, provide that adjustment up to a maximum 20 *per cent* of licence fee from country liquor to foreign liquor shop or *vice versa* in a group of shops may be allowed by AEC/DEO of the district by examining the demand and requirement of the concerned licensee after approval of the DEC of the division. The information of such adjustment should also be sent to the Excise Commissioner by AEC/DEO at the same time. Further, each shop within the group has its individual and independent identity.

We observed from G-2 registers and related records in four District Excise Offices[52] between May 2011 and March 2012 that the licence fee of 20 liquor shops for the years 2009-10 and 2010-11 was ₹ 17.45 crore and adjustment of up to 20 *per cent* of licence fee of ₹ 3.20 crore from 14 foreign liquor to 14 country liquor and six country liquor to six foreign liquor shops within the group was allowed by the concerned AEC/DEO with the approval of DECs of the division. As such the licence fee of 20 shops for the year 2009-10 and 2010-11 worked out to ₹ 20.65 crore.

50 Military Canteen Wholsale Licence

51 Military Canteen Retail Licence

52 Damoh, Indore, Rajgarh and Shivpuri

It was, however, seen that licence fee of ₹ 19.28 crore was deposited leaving the balance of ₹ 1.37 crore unrecovered. This resulted in short realisation of licence fee of ₹ 1.37 crore.

After we pointed out the cases, all the DEOs stated between May 2011 and March 2012 that the licensees did not avail the full adjustment allowed and as such they deposited the amount of fortnightly licence fee in the shops from which the adjustment was not availed. Therefore, the licence fee of the group of shops was deposited completely and there was no loss to the Government. As there was no restriction on cancellation of adjustment in the rules, the non-availment was not irregular. We do not agree as the adjustment was allowed with the approval of DEC after examining the demand and requirement of the licensees.

3.5.24 Irregular issue of liquor

The conditions of sale of liquor shops for the year 2008-09, 2009-10 and 2010-11 issued by the EC under notifications dated 15 January 2008, 16 January 2009 and 28 January 2010 provided that if the licensee of a retail liquor shop deposits the amount of annual licence fee by deducting the amount of security deposit and any other amount due, prior to the end of the financial year and he desires the adjustment of security deposit against the remaining licence fee, the AEC/DEO may allow such adjustment. The issue of liquor on the amount equal to the security deposit may be allowed as per provision, but the issue of liquor on the amount in excess of the prescribed fortnightly licence fee in any fortnight will not be allowed.

MPCS Rules provide that on demand by retail vendor and upon proof of payment into treasury of the issue price recoverable for it, the licensee shall supply the potable spirit of the prescribed strength as required.

3.5.24.1 We observed from the G-2[53] and D-17[54] registers of AEC, Raisen in December 2011 that three licensees of nine liquor shops of three groups[55] were allowed adjustment of security deposit of ₹ 27.56 lakh towards remaining licence fee of the year 2009-10 on the orders of the DEO at the end of February 2010. Though the issue of liquor was admissible to the licensees, the liquor was not allowed to be lifted by the DEO, reasons for which were not on record. The amount was adjusted against the annual licence fee of the shops for the year 2009-10. However the liquor against this was issued in the subsequent year (2010-11), which was not covered under the Rules. After we pointed out the case, DEO Raisen stated that the issue was allowed with the orders of EC. We do not agree as issue of liquor in the subsequent year was not covered under the Rules.

[53] Demand and collection register of annual licence and basic licence fee

[54] Country liquor issue register

[55] A group consisting of country and foreign liquor shops

3.5.24.2 We observed from the G-2 and D-17 registers of two DEOs[56] between June 2011 and March 2012 that the licensees of three liquor shops were allowed adjustment of security deposit of ₹ 15.18 lakh at the end of February 2009, 2010 and 2011. Out of this, on an amount of ₹ 12.60 lakh, the issue of liquor was allowed to the licensees in the first and second fortnight of March 2009, 2010 and 2011 which was in excess by ₹ 8.31 lakh from the prescribed licence fee of ₹ 4.29 lakh for these fortnights. This resulted in irregular issue of liquor involving duty of ₹ 8.31 lakh.

After we pointed out the cases, DEO Ashoknagar stated (March 2012) that the excess issue of liquor was allowed to the licensee in the first and second fortnight of March 2009 as he did not avail the issue of liquor in the first and second fortnight of February 2009. The reply is not in consonance with the rules. DEO, Damoh stated (June 2011) that as the bank draft for adjustment of licence fee was received on 28.02.2011, the issue of liquor for three fortnights was allowed. We do not agree as the challan for the amount was deposited on 01.03.2011, and, therefore, the issue of liquor for the second fortnight of February 2011 was not admissible.

3.5.25 Short recovery of import fee

MPB&W Rules provide that beer may be imported from outside the State on payment of import fee prescribed by the Government from time to time. The fee was prescribed at the rate of ₹ 11 per BL up to 31 March 2011 and ₹ 15 thereafter.

We observed from import permits and challans in the office of the AEC Jabalpur in December 2011 that 1,76,946 BL of beer was imported on 37 permits by an FL-6 licensee against import permits issued by the AEC, during the period between April 2011 and November 2011. Import fee of ₹ 19.46 lakh was levied against ₹ 26.54 lakh leviable due to levy of fee at old rates. This resulted in short levy of import fee of ₹ 7.08 lakh.

After we pointed this out, the AEC Jabalpur stated (December 2011) that ₹ 79,944 had been recovered from the licensee and action would be taken for recovery of the remaining amount.

[56] Ashoknagar and Damoh

3.5.26 Excess issue of liquor due to incorrect fixation of basic license fee

The conditions for sale of liquor through shops for the year 2011-12 issued by the EC under notification dated 5 February 2011 provides that the basic licence fee for the liquor shops situated in the *Nagar Nigam* area of Bhopal, Gwalior, Indore and Jabalpur shall be 60 *per cent;* in other *Nagar Nigam* and *Nagar Palika* areas it shall be 55 *per cent* and in *Nagar Panchayat* and rural areas, it shall be 50 *per cent* of the annual value of the shop. The remaining amount of annual value of the shop shall be recovered as annual licence fee. The Excise Duty paid by the licensee for purchase of liquor shall be adjusted against annual licence fee. The issue of liquor will not be admissible on the basic licence fee.

We observed from the annual and basic licence fee fixation records of AEC office, Jabalpur in February 2012, that the license for the country liquor shop, Amkhera was renewed for the year 2011-12 at an annual value of ₹ 78.40 lakh. The basic licence fee of the shop was fixed as ₹ 39.20 lakh at the rate of 50 *per cent* of annual value treating it as being located in the rural area, while it should have been fixed as ₹ 47.03 lakh at the rate of 60 *per cent* of annual value as the shop was situated in *Nagar Nigam* Jabalpur. This resulted in short fixation of basic licence fee of ₹ 7.84 lakh and as such the annual licence fee was fixed in excess by the same amount. According to the rules, the issue of liquor on this amount was not admissible. However, the Department allowed adjustment of excise duty paid by the licensee for purchase of liquor against this amount treating it as annual licence fee. This resulted in excess issue of country liquor involving duty of ₹ 7.84 lakh.

After we pointed this out, the AEC Jabalpur stated (February 2012) that the country liquor shop at Amkhera was categorised in the rural area by the Collector, Jabalpur and the basic licence fee was deposited accordingly. We do not agree as according to the Census for the year 2001, Amkhera is situated in ward No. 62 of Jabalpur *Nagar Nigam* area.

We reported the matter to the EC and the Government between May 2010 and July 2012; their replies have not been received (March 2013).

3.5.27 Conclusion

The Performance Audit indicated that the system instituted by the Commercial Tax Department for collection of excise receipts on liquor was deficient. Monitoring of key areas such as EVC on export/transport of liquor maintenance of minimum stock of spirit in distilleries, wastages during export, transport, storage and manufacture of liquor, etc. was weak. Internal Audit, an important component of the internal control mechanism, was also rendered ineffective due to lack of follow up on audit observations. Additionally, the Department failed to follow the provisions of the Act/rules and instructions issued by the Government in many areas like grant of licences for

manufacturing and sale of liquor, collection of licence fee, collection of fee on transport and import of liquor/spirit etc. resulting in significant amount of non/short realisation of excise receipts on liquor.

3.5.28 Summary of recommendations

The Government may consider implementing the following recommendations for effective levy and collection of State excise duty and fee.

- introducing provisions in the distillery rules for control over molasses and other bases kept in the distillery for production of alcohol;
- fixing norms for minimum yield of beer;
- making necessary provision for recovery of *Ahata* licence fee on revised annual value of shops worked out after adjustment of licence fee; and
- strengthening the internal audit mechanism.

3.6 Non levy of penalty on excess wastage in manufacture of beer

MPB&W Rules provide for allowance of wastages on account of racking*, evaporation, storage, pasteurisation and other contingencies in a brewery at the rate of five *per cent* per quarter on the closing balance of the previous quarter plus quantity produced during the quarter. In case the yearly wastage is more than five *per cent*, the licensee shall be liable to pay penalty on the wastages in excess of the admissible limit at rates exceeding three times but not exceeding four times the duty payable at that time up to 13 December 2011 and thereafter not exceeding the amount of duty payable at that time. EC had prescribed vide circular dated 15 May 2008 quarterly/yearly returns for production of beer and wastages thereon, which will be sent to EC and DEC offices by the OIC of breweries regularly.

* Transferring of beer from one vessel to another

We observed from the Beer production and Manufacturing wastage registers in one brewery[57] situated in Morena district, in December 2010 and further information collected in May 2011, that there was wastage of 11,61,386 BL of beer on account of racking, evaporation and storage etc. during the year 2010-11, which was in excess by 7,573.5 BL over the admissible limit of 11,53,812.5 BL. As such, the licensee was liable to pay minimum penalty of ₹ 11.81 lakh. It was however, noticed that no penal action was initiated by the OIC of the brewery. This resulted in non levy/realisation of penalty of ₹ 11.81 lakh[58].

The matter was reported to the Department and the Government (August 2012); their replies have not been received (March 2013).

[57] M/s Skoll Breweries Ltd. *Sub lessee* at M/s Trapti Alcobrew Ltd. Morena

[58] 7,573.5 BL × ₹ 52 × 3 = ₹ 11,81,466 (₹ 11.81 lakh)

CHAPTER - IV

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter, we present illustrative cases of ₹ 9.48 crore selected from observations noticed during our test check of records relating to assessment and collection of tax/fee/penalty on motor vehicles in the office of the Transport Commissioner (TC) and the Regional Transport Officers (RTOs), where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.
Tax collection	In 2011-12, the collection from taxes on vehicles increased by 13.25 *per cent* over the previous year which was attributed by the Department to effective computerisation.
Very low recovery by the Department of observations pointed out by us in earlier years	During the period from 2006-07 to 2010-11, we had pointed out non/short levy, non/short realisation of tax, application of incorrect rate of tax etc., with revenue implication of ₹ 121.01 crore in 24,404 cases. Of these, the Department/Government had accepted audit observations in 17,972 cases involving ₹ 98.07 crore and had since recovered ₹ 12.59 crore in 5,530 cases. The recovery position as compared to acceptance of objections was very low ranging from 5.29 *per cent* to 18.23 *per cent* except in the year 2009-10.
Results of audit conducted by us in 2011-12	In 2011-12, we test checked the records of 17 units relating to taxes on motor vehicles and found under-assessment of tax and other observations involving ₹ 13.04 crore in 2,31,335 cases. The Department accepted under assessment and other deficiencies of ₹ 2.88 crore in 642 cases, which were pointed out by us during the year 2011-12. An amount of ₹ 16.51 lakh was recovered in 108 cases during the year 2011-12.
Our conclusion	The Department did not adhere to the roster fixed for internal audit. It needs to improve the internal control system including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future. It also needs to initiate immediate action to recover non-realisation of tax and penalty pointed out by us, more so in those cases where it has accepted our contention.

CHAPTER - IV
TAXES ON VEHICLES

4.1 Tax administration

The Transport Department functions under the overall charge of the Additional Chief Secretary (Transport). The levy and collection of tax/fee/penalty on vehicles is administered and monitored by the Transport Commissioner (TC). He is assisted by three Deputy Transport Commissioners (DTC), 10 regional transport offices (RTOs), 10 additional regional transport offices (ARTOs) and 30 district transport offices (DTOs) at the field level. Taxes on vehicles are collected under the provisions of the following Acts and Rules and notifications issued thereunder:

- The Motor Vehicles (MV) Act, 1988;
- Central Motor Vehicles (CMV) Rules, 1989;
- Madhya Pradesh *Motoryan Karadhan Adhiniyam (Adhiniyam)*, 1991; and
- Madhya Pradesh *Motoryan Karadhan Niyam (Niyam)*, 1991.

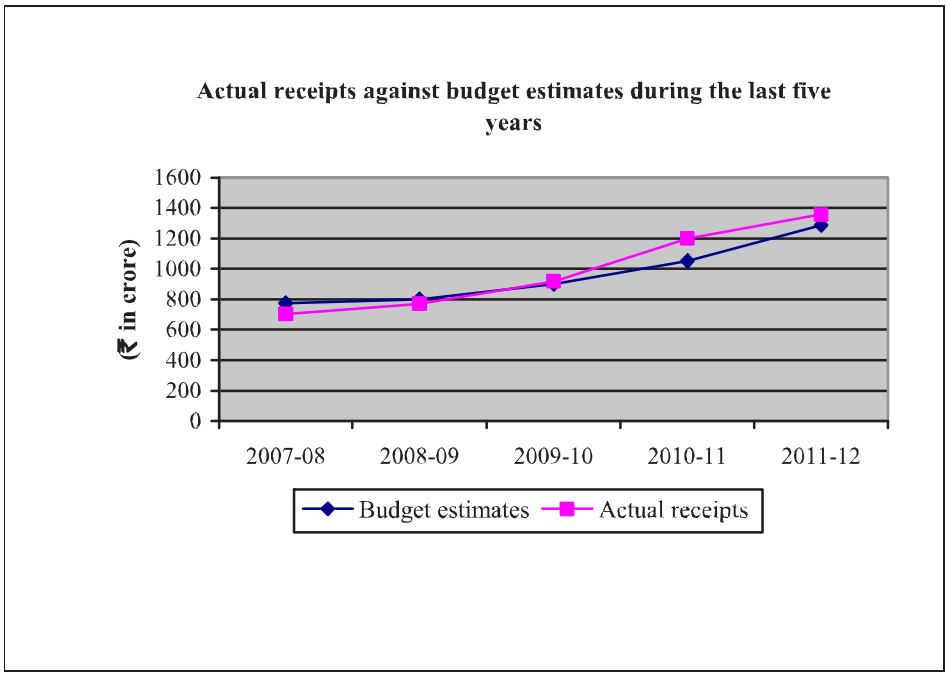
4.2 Trend of receipts

Actual receipts from taxes on vehicles during the period 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following table and line graph:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual tax receipts vis-a-vis total tax receipts
2007-08	775.00	702.62	(-) 72.38	(-) 9.34	12,017.64	5.85
2008-09	800.00	772.56	(-) 27.44	(-) 3.43	13,613.50	5.68
2009-10	900.00	919.01	(+) 19.01	(+) 2.11	17,272.77	5.32
2010-11	1,050.00	1,198.38	(+) 148.38	(+) 14.13	21,419.33	5.59
2011-12	1,285.00	1,357.12	(+) 72.12	(+) 5.61	26,973.44	5.03

(Source: Budget estimates and Finance Accounts of the Government of Madhya Pradesh)



It may be seen that though there was an increasing trend in receipts during the years from 2007-08 to 2011-12, the percentage of variation between the BEs and the actual receipts ranged between (-) 9.34 *per cent* and (+) 14.13 *per cent*.

In 2011-12, the collection from taxes on vehicles increased by 13.25 *per cent* over the previous year which was attributed by the Department to effective computerisation.

4.3 Impact of audit

4.3.1 Position of Inspection Reports (IRs)

During the period 2006-07 to 2010-11, through our IRs, we had pointed out non/short levy, non/short realisation, application of incorrect rate of tax etc., with revenue implication of ₹ 121.01 crore in 24,404 cases. Of these, the Department/Government had accepted audit observations in 17,972 cases involving ₹ 98.07 crore and had since recovered ₹ 12.59 crore (as on 30 November 2012). The details are shown in the following table:

(₹ in crore)

Year of Inspection Report	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2006-07	18	1,938	20.05	1,938	20.05	394	1.06	5.29
2007-08	19	7,125	49.18	7,125	49.18	1,253	2.89	5.88
2008-09	28	5,962	21.88	4,851	19.09	1,422	3.48	18.23
2009-10	27	5,534	18.44	2,209	5.19	1,927	4.37	84.20
2010-11	26	3,845	11.46	1,849	4.56	534	0.79	17.32
Total		**24,404**	**121.01**	**17,972**	**98.07**	**5,530**	**12.59**	

The percentage of recovery as compared to the accepted cases has been low over the last five years except in the year 2009-10. We brought this issue to the notice of the Head of the Department as well as the Finance Secretary of the Government (January 2013).

4.3.2 Position of Audit Reports (ARs)

In the Audit Reports 2006-07 to 2010-11, we had pointed out non/short levy, non/short realisation, application of incorrect rate of tax etc., with revenue implication of ₹ 68.77 crore in 37 paragraphs. Of these, the Department/ Government had accepted audit observations in 21 paragraphs involving ₹ 50.50 crore and had since recovered ₹ 10.45 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Number of paragraphs	Money value	No. of accepted paragraphs	Money value of accepted paragraphs	No. of paragraphs against which recovery made	Amount recovered upto 31.03.12
2006-07	4	5.39	1	5.05	1	1.96
2007-08	11	21.18	6	19.86	6	2.89
2008-09	7	20.22	6	18.45	6	3.38
2009-10	8	11.49	5	3.37	5	1.43
2010-11	7	10.49	3	3.77	3	0.79
Total	**37**	**68.77**	**21**	**50.50**	**21**	**10.45**

The percentage of recovery as compared to the accepted cases has been low during the last five years.

We recommend that the Government should take appropriate steps to improve the recovery position at least against the accepted cases.

4.4 Cost of collection

The gross collection in respect of taxes on vehicles, expenditure incurred on its collection and the percentage of such expenditure to gross collection during the years 2009-10, 2010-11 and 2011-12 along with the relevant all-India average percentage of expenditure on collection for the previous year are mentioned below:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of expenditure on collection for the previous year
2009-10	919.01	28.42	3.09	2.93
2010-11	1,198.38	32.90	2.75	3.07
2011-12	1,357.12	40.40	2.97	3.71

(Source: Finance Accounts of the Government of Madhya Pradesh)

We appreciate that the cost of collection had been well below the all-India average during the year 2010-11 and 2011-12. The Department should ensure that this trend is maintained in the subsequent years also.

4.5 Working of internal audit wing

Internal audit wing (IAW) has been established in the Department with the objective of conducting internal audit of all subordinate offices and issuing instructions for taking proper corrective action on irregularities detected during such examination and avoiding the recurrence thereof. During the year 2011-12, internal audit of 50 districts was planned against which audit was conducted only in four districts. The Department did not inform the reasons for shortfall despite being requested (January 2013). We noticed that the IAW had scrutinised the records of monthly and quarterly tax in the four districts and issued instruction for corrective measures during 2011-12. Further details on the corrective action taken by the districts are awaited (March 2013).

4.6 Results of audit

Test check of the records of 17[1] units relating to taxes on vehicles during the year 2011-12 revealed underassessment of tax and other irregularities involving ₹ 13.04 crore in 2,31,335 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1.	Non/short levy of vehicle tax, penalty and composition fee on public service vehicles	1,243	6.40
2.	Non/short levy of vehicle tax and penalty on goods vehicles	1,275	4.19
3.	Other observations	2,28,817	2.45
	Total	**2,31,335**	**13.04**

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 2.88 crore in 642 cases, which were pointed out in audit during the year 2011-12 and realised ₹ 16.51 lakh in 108 cases.

A few illustrative audit observations involving ₹ 9.48 crore highlighting important audit findings are mentioned in the following paragraphs.

[1] Regional Transport Officer (RTO) - Bhopal, Gwalior, Indore, Jabalpur, Morena, Rewa and Sagar; Additional Regional Transport Officer (ARTO) - Chhatarpur, Khargone and Satna and District Transport Officer (DTO) - Balaghat, Barwani, Damoh, Dindori, Harda, Mandla and Narsinghpur.

4.7 Non realisation of tax and penalty on vehicles

According to the provisions of the Madhya Pradesh *Motoryan Karadhan Adhiniyam (Adhiniyam) 1991,* tax shall be levied on every vehicle used or kept for use in the State at the rates (monthly/quarterly) specified in the first schedule to the *Adhiniyam*. If the owner of the vehicle defaults in making payment of tax, he shall be liable to pay penalty at the rate of four *per cent* per month on the unpaid amount of tax which shall not be more than twice the amount of tax. As per the provisions of the *Adhiniyam,* the Taxation Authority (TA) is required to maintain a Demand and Collection register to watch the recovery of tax. He is also required to review the register at periodic intervals and issue demand notices to the defaulters.

We found (between November 2011 and March 2012) during review of the demand and collection register, permit register and vehicle surrender register, No Objection Certificate issuance register and computerised database (in 17 offices, where database was made available) that tax amounting to ₹ 4.03 crore was not paid by the vehicle owners in respect of 1,652 vehicles out of 15,000 cases test checked for the period between April 2006 and March 2011. There was nothing on record to show that the vehicles were declared off road or were transferred to any other district/State. No action was taken by the TAs to recover the tax from the defaulting vehicle owners according to the provisions of *Adhiniyam* and the Rules made thereunder. Further, penalty of ₹ 3.13 crore though leviable was not levied. This resulted in non-realisation of Government revenue of ₹ 7.16 crore as mentioned below:

(₹ in crore)

Sl. No.	No. of offices	Category of vehicles No. of vehicles	Period involved	Tax not paid	Penalty leviable	Total
1	17[2]	Goods vehicles 1,053	4/06 to 3/11	1.87	1.48	3.35
2	17[3]	Public service vehicles kept as reserve 292	4/06 to 3/11	1.02	0.80	1.82
3	14[4]	Public service vehicles plying on regular stage carriage permits 130	12/06 to 3/11	0.80	0.56	1.36
4	13[5]	Maxicab 177	4/06 to 3/11	0.34	0.29	0.63
Total		**1,652**		**4.03**	**3.13**	**7.16**

[2] Regional Transport Officer (RTO)- Bhopal, Gwalior, Indore, Jabalpur, Morena, Rewa and Sagar, Additional Regional Transport Officer (ARTO)- Chhatarpur, Khargone and Satna and District Transport Officer (DTO)- Balaghat, Barwani, Damoh, Dindori, Harda, Mandla and Narsinghpur.

[3] RTO- Bhopal, Gwalior, Indore, Jabalpur, Morena, Rewa and Sagar, ARTO- Chhatarpur, Khargone and Satna and DTO- Balaghat, Barwani, Damoh, Dindori, Harda, Mandla and Narsinghpur.

[4] RTO- Bhopal, Gwalior, Indore, Jabalpur, Morena and Rewa, ARTO- Chhatarpur, Khargone and Satna and DTO- Balaghat, Barwani, Harda, Mandla and Narsinghpur.

[5] RTO- Gwalior, Indore, Jabalpur and Morena, ARTO- Chhatarpur, Khargone and Satna and DTO- Barwani, Damoh, Dindori, Harda, Mandla and Narsinghpur.

After we pointed out the cases (between November 2011 and March 2012), eight TAs[6] stated (between April and September 2012) that an amount of ₹ 13.88 lakh had been recovered in 56 cases and demand notices had been issued in 514 cases. In the other cases the remaining TAs stated (between January and March 2012) that action would be taken/recovery would be made after scrutiny of the cases.

We reported the matter to the Department and the Government between March and June 2012; their replies have not been received (March 2013).

4.8 Short-realisation of tax and non-levy of penalty on motor vehicles

According to section 3(1) of the *Adhiniyam,* tax shall be levied on every motor vehicle used or kept for use in the state at the rate specified in the First Schedule. In case of public/private service vehicle, tax will be calculated on the basis of the seating capacity of the vehicle and distance of the route allowed. If the tax due has not been paid within the prescribed period, penalty is also leviable at the rate specified under section 13 of the *Adhiniyam ibid.*

We found (between December 2011 and March 2012) during review of the demand and collection register, permit deposit register, vehicle surrender register and NOC issue register in thirteen District/ Regional Transport offices[7] that tax in respect of 267 motor vehicles for the period between January 2006 and March 2011 was paid short by the vehicle owners due to application of incorrect rate of tax. Failure of the TAs to detect the application of incorrect rate of tax resulted in short realisation of vehicle tax of ₹ 21.36 lakh. Besides, penalty of ₹ 14.31 lakh leviable on the unpaid amount of tax was also not levied.

After we pointed out the cases (between December 2011 and March 2012), five TAs[8] stated (between May and September 2012) that an amount of ₹ 2.63 lakh had been recovered in 52 cases and demand notices had been issued/action for recovery was in progress in 38 cases. In other cases the remaining TAs stated (between January and March 2012) that action would be taken/recovery would be made after scrutiny of the cases.

We reported the matter to the Department and the Government between March and June 2012; their replies have not been received (March 2013).

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6 RTO- Morena and Sagar, ARTO- Chhatarpur , Khargone and Satna, DTO- Harda, Mandla and Narsinghpur

7 RTO- Bhopal, Gwalior, Indore, Jabalpur and Rewa, ARTO- Khargone and Satna, DTO- Balaghat, Damoh, Dindori, Harda, Mandla and Narsinghpur.

8 ARTO- Khargone and Satna, DTO- Harda, Mandla and Narsinghpur

4.9 Non/short realisation of trade fee

Rule 34 of the Central Motor Vehicles (CMV) Rules, 1989 provides that an application for the grant or renewal of a trade certificate shall be made by the dealer in form 16 and shall be accompanied by the appropriate fee as specified in Rule 81 *ibid*. The fee is chargeable for each vehicle sold by the dealer.

We found (between January and March 2012) during review of the trade fee register and returns submitted by the dealers (wherever available) and from information furnished by the TAs in six District/ Regional Transport offices[9] that 2,28,682 vehicles were registered under different categories between April 2008 and March 2011. However, the dealers had not deposited the requisite trade fee or deposited less trade fee than that prescribed. The TAs also did not ascertain the actual number of vehicles sold against which trade certificates were issued and recover the correct amount of trade fee. This resulted in non/short realisation of revenue of ₹ 1.82 crore.

After we pointed out the cases (between January and March 2012), the TA, Gwalior stated (January 2012) that trade tax was collected from the dealers under Section 4 of *Adhiniyam* as per rates specified in the Third Schedule whereas the TAs Bhopal, Rewa and Balaghat stated (between February and March 2012) that registered dealers had obtained trade certificate as per CMV Act and had deposited the appropriate trade fee payable for a block of seven vehicles or their multiple in the dealer's possession as per the *Adhiniyam*. The reply does not address the issue of non-recovery of trade fee prescribed under the CMV Rules, 1989. Besides, the Department had also not prescribed a mechanism to verify the correctness of payments made by the dealers. This resulted in non/short realisation of trade fee.

We reported the matter to the Department and the Government between April and June 2012; their replies have not been received (March 2013).

The Government may consider prescribing a periodical return to be furnished by the dealers indicating sale of vehicles and trade fee payable thereon which may be cross checked with the records of registration of vehicles.

[9] RTO- Bhopal, Gwalior, Jabalpur and Rewa and DTO- Balaghat and Damoh.

4.10 Non levy of vehicle tax and penalty on public service vehicles plying on all India tourist permits

All India Tourist permit is granted by the State Transport Authority (STA) under Section 88(9) of the Motor Vehicles Act, 1988. Tax is payable at the rates prescribed in the First Schedule of the *Adhiniyam*, 1991. If the tax due has not been paid within the prescribed period, penalty is also leviable at the rate of four *per cent* as specified in the *Adhiniyam.*

We found (December 2011) during review of the demand and collection register, permit deposit register, vehicle surrender register, NOC issue register and computerised database in DTO, Narsinghpur that two operators did not pay vehicle tax in respect of three public service vehicles plying on all India tourist permits for the period between April 2009 and October 2010. These vehicles were not declared off road and the said permits were also not surrendered by the vehicle owners. The TA failed to detect these vehicles to recover the tax with penalty according to the *Adhiniyam*. This resulted in non-realisation of tax of ₹ 7.28 lakh. Besides, penalty of ₹ 6.77 lakh was also leviable.

After we pointed out the cases (December 2011), the TA stated (July 2012) that demand notices had been issued to the defaulters.

We reported the matter to the Department and the Government between March and June 2012; their replies have not been received (March 2013).

CHAPTER - V

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter, we present illustrative cases of ₹ 14.25 crore selected from observations noticed during our test check of records relating to non/short realisation of premium and ground rent, non remittance of land revenue and *upkar* in government account, non levy of service charges, non recovery of process expenses and underassessment of diversion rent and premium etc. in the office of the *Tahsildars* and Collectors, where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that though similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, the Department has not taken corrective action.
Tax collection	In 2011-12, the collection of taxes from land revenue decreased by 22.66 *per cent* over the previous year due to postponement of recovery in order to provide relief to farmers affected by natural calamities.
Very low recovery by the Department of observations pointed out by us in earlier years	During the period from 2006-07 to 2010-11, through our Inspection Reports we had pointed out underassessment of premium, ground rent and diversion rent, non renewal of lease of *nazul* land, non levy of process expenses, non registering of revenue recovery certificate etc. with revenue implication of ₹ 2,087.83 crore in 6,82,978 cases. Of these, the Department/Government had accepted audit observations in 6,06,378 cases involving ₹ 1234.42 crore and had since recovered ₹ 162.59 crore in 15,119 cases. The recovery position as compared to acceptance of objections was very low, ranging from 0.64 *per cent* to 35.11 *per cent*.
Results of audit conducted by us in 2011-12	In 2011-12 we test checked the records of 66 units relating to land revenue and found underassessment of premium, ground rent, diversion rent and other irregularities involving ₹ 293.20 crore in 19,901 cases. The Department accepted underassessment and other deficiencies of ₹ 278.02 crore in 19,323 cases, which were pointed out by us during the year 2011-12. An amount of ₹ 3.61 crore was recovered in 179 cases during the year 2011-12.
Our conclusion	The Department needs to initiate immediate action to recover the amount on account of under assessment of premium and ground rent, under assessment of diversion rent and *upkar*, non recovery of process expenses etc. pointed out by us, more so in those cases where it has accepted our contention.

CHAPTER-V
LAND REVENUE

5.1 Tax administration

The Revenue Department is headed by the Principal Secretary at the Government level. The Principal Revenue Commissioner (PRC) is the Head of the Department and is assisted by the Commissioner, Settlement and Land Records (CSLR). Commissioners of Divisions exercise administrative and fiscal control over the districts included in the Division. In each district, the Collector administers the activities of the Department. It is entrusted upon the Collector of a district to place one or more Assistant Collector(s) or Joint Collector(s) or Deputy Collector(s) in charge of a sub-division of a district. The officers so placed in charge of a sub-division are called Sub Divisional Officers. They have to exercise such powers of the Collector as are directed by the State Government by notification. Superintendents/Assistant Superintendents, Land Records (SLR/ASLR) are posted in the Collectorate for maintenance of revenue records and settlement. Tahsildars/Additional Tahsildars are deployed in the tahsils as representatives of the Revenue Department. There are 10 revenue divisions, each headed by a Commissioner, 50 districts, each headed by a Collector and 341 tahsils in the State.

Receipts from Land Revenue are regulated under the provisions of the following Acts and Rules and notifications issued thereunder:

- Madhya Pradesh Land Revenue Code (MPLRC), 1959;
- Madhya Pradesh *Panchayat Raj Adhiniyam* (MPPRA), 1993;
- Madhya Pradesh *Upkar Adhiniyam*, 1982;
- Madhya Pradesh *Lokdhan (Shodhya Rashiyon Ki Vasuli) Adhiniyam* (MPLA), 1987 and
- Revenue Book Circular (RBC).

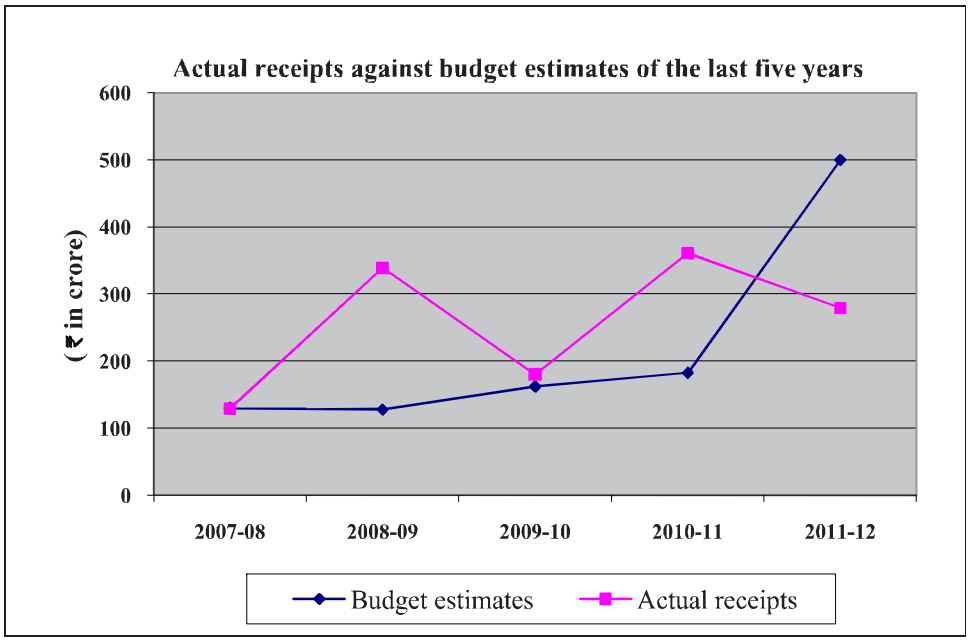
5.2 Trend of receipts

Budget estimates (BEs) and actual receipts from Land Revenue during the period 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and line graph:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual tax receipts vis-a-vis total tax receipts
2007-08	130.00	129.15	(-) 0.85	(-) 0.65	12,017.64	(+) 1.07
2008-09	127.45	338.84	(+) 211.39	(+) 165.86	13,613.50	(+) 2.49
2009-10	161.81	180.03	(+) 18.22	(+) 11.26	17,272.77	(+) 1.04
2010-11	182.46	360.81	(+) 178.35	(+) 97.75	21,419.38	(+) 1.68
2011-12	500.30	279.06	(-) 221.24	(-) 44.22	26,973.44	(+) 1.03

(Source: Budget estimates and Finance Accounts of the Government of Madhya Pradesh)



In 2011-12, the collection of taxes from land revenue decreased by 22.66 *per cent* over the previous year.

It may be seen that the variation between BEs and actuals ranged between (-) 44.22 *per cent* and 165.86 *per cent* during the years 2007-08 to 2011-12. The Department reported (August 2012) that the shortfall in actual receipts during the year 2011-12 over the budget estimate as well as receipts of the previous year was on account of deferment of revenue recovery in order to provide relief to farmers affected by natural calamities in 2010-11.

5.3 Impact of audit

5.3.1 Position of Inspection Reports (IRs)

During the period 2006-07 to 2010-11, through our IRs we had pointed out underassessment of premium, ground rent and diversion rent, non renewal of lease of *nazul*[1] land, non levy of process expenses, non registering of revenue recovery certificate etc. with revenue implication of ₹ 2,087.83 crore in 6,82,978 cases. Of these, the Department/Government had accepted audit observations in 6,06,378 cases involving ₹ 1,234.42 crore and had since recovered ₹ 162.59 crore in 15,119 cases. The details are shown in the following table:

[1] Government land situated within urban areas.

(₹ in crore)

Year of Inspection Report	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2006-07	120	1,02,263	203.65	1,02,167	197.87	7,978	14.50	7.33
2007-08	110	2,37,557	110.81	2,37,557	110.81	6,835	4.76	4.30
2008-09	121	33,807	274.22	33,807	274.22	183	1.76	0.64
2009-10	94	1,36,783	628.68	72,803	378.94	9	133.04	35.11
2010-11	45	1,72,568	870.47	1,60,044	272.58	114	8.53	3.13
Total		**6,82,978**	**2,087.83**	**6,06,378**	**1,234.42**	**15,119**	**162.59**	

The recovery position as compared to acceptance of objections was very low, ranging from 0.64 *per cent* to 35.11 *per cent*.

5.3.2 Position of Audit Reports (ARs)

In the Audit Reports 2006-07 to 2010-11, we had pointed out cases of underassessment of premium and ground rent, non remittances of land revenue and *upkar*[2] in Government accounts, non levy of service charges, non recovery of process expenses, underassessment of diversion rent and premium etc. with revenue implication of ₹ 329.58 crore. While the Department accepted observations of ₹ 247.28 crore it recovered a sum of only ₹ 5.42 crore up to March 2012, as shown in the following table:

(₹ in crore)

Year of Audit Report	No. of paragraphs	Money Value	No. of accepted paragraphs	Money Value of accepted paragraphs	No. of paragraphs against which recovery made	Amount recovered up to 31.03.12
2006-07	5	1.11	5	1.11	5	0.80
2007-08	5	4.75	4	2.92	4	2.92
2008-09	7	5.22	6	4.01	4	0.42
2009-10	1	314.60	1	237.29	1	1.16
2010-11	6	3.90	2	1.95	1	0.12
Total	**24**	**329.58**	**18**	**247.28**	**15**	**5.42**

We recommend that the Government should take appropriate steps to recover the amounts involved, at least in the accepted cases.

5.4 Working of internal audit wing

The internal audit wing of a Department is a vital component of its internal control mechanism. The Department reported (August 2012) that no posts had been sanctioned for internal audit and thus internal audit of the subordinate offices was not conducted.

[2] *Panchayat* cess which is 50 per cent of land revenue.

5.5 Results of audit

Test check of the records of 66 units relating to land revenue during the year 2011-12 indicated underassessment of revenue and other irregularities involving ₹ 293.20 crore in 19,901 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Underassessment of premium and ground rent	2	8.85
2.	Non-registration of revenue recovery certificates	289	85.74
3.	Underassessment of diversion rent/premium	24	0.21
4.	Non-renewal of lease of *nazul* land	125	1.83
5.	Non-raising of demand of diversion rent/premium and penalty	170	1.44
6.	Non-levy/realisation of process expense	2,717	1.82
7.	Other observations	16,574	193.31
Total		**19,901**	**293.20**

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 278.02 crore in 19,323 cases, which were pointed out in audit during the year 2011-12. An amount of ₹ 3.61 crore was realised in 179 cases during the year 2011-12.

A few illustrative audit observations involving ₹ 14.25 crore highlighting important audit findings are mentioned in the following paragraphs.

5.6 Underassessment of premium and ground rent

Revenue Book Circular (RBC)-IV-I provides for levy of premium on market value of 60 *per cent* of *nazul* land allotted to a development authority or the plot area for residential purpose, whichever is more, whereas it will be leviable on total land in case of allotment for commercial purpose. Ground rent is leviable at prescribed rates respectively for commercial and residential purposes. According to the circular of April 2003 issued by Revenue Department, Government of Madhya Pradesh, *nazul* land would be valued according to the provisions of the guidelines issued by the Collector after reducing development charges.

We observed (January 2012) during test check of case files of allotment of land in Collectorate (*Nazul*), Gwalior that Government land measuring 21320 sq. meter for commercial purposes and 17420 sq. meter for residential purposes, situated in *gram* Jaderua Khurd, was leased to Gwalior Development Authority in May 2010 at a premium of ₹ 1.30 crore and ground rent of ₹ 9.76 lakh. We noticed that the Department valued the land at rates applicable to agricultural land instead of the rates applicable to land allotted for commercial and residential purposes, respectively. The underassessment of premium and ground rent resulted in short levy/realisation of revenue of ₹ 7.79 crore as per details given below:

(in ₹)

Sl. No.	Purpose	Area Sq. meter/ Rate per sq. meter	Premium Ground rent leviable	Premium Ground rent levied	Short levy of premium & Ground rent
1	Commercial	21,320 3,068	6,54,09,760 49,05,732	13016500 976238	72962796 4957971
2	Residential	17,420 1,968	2,05,69,536 10,28,477		
Total			**8,59,79,296** **59,34,209**	**1,30,16,500** **9,76,238**	**7,29,62,796** **49,57,971**
Grand total			**9,19,13,505**[3]	**1,39,92,738**	**7.79 crore**

[3] Calculation of development charge:
According to the details of Colony Development Permission Cases (between 2009 to 2011) of 10 colonies in Nagar Nigam Gwalior, total land area was 5.71 lakh sq. m. and total estimated development cost was ₹ 13.20 crore. Therefore, Development charge = ₹ 13.20 crore/5.71 lakh sq. m.= ₹ 232 per sq. m. (rounded off to next higher rupee)
Calculation of commercial premium and ground rent:
Premium: 21,320 sq. m. @ ₹ 3,300- ₹ 232 per sq. m.= ₹ 6,54,09,760
Ground rent:7.5% of ₹ 6,54,09,760 (premium) = ₹ 49,05,732
Calculation of residential premium and ground rent:
Premium: 17,420 sq. m. @ ₹ 2,200- ₹ 232 per sq. m. * 60% = ₹ 2,05,69,536
Ground rent: 5% of ₹ 2,05,69,536 (Premium) = ₹ 10,28,477

After we pointed out the case (January 2012), the *Nazul* Officer stated that the case would be submitted to the Collector for raising the demand for the differential amount.

We reported the matter to the Department and the Government in April and May 2012; their replies have not been received (March 2013).

5.7 Non remittance of land revenue and *upkar* in Government account

As per Rule 7 (i) of Madhya Pradesh Treasury Code (volume I) read with Government notification issued in November 2001, land revenue and *upkar* collected by *tahsil* offices should be remitted into the treasury in Government account under the major head 0029 - Land Revenue. Further, according to Rule 3 and 4 of District *Panchayat Raj* Fund Rules, 1998, District *Panchayat Raj* Fund is to be kept in the savings bank account of nationalised banks as may be notified by the State Government. This fund comprises the proceeds of development tax, other taxes and fee etc.

We observed (between May 2011 and November 2011) during test check of statement of demand and collection and challans of 15 Tahsil offices[4] that land revenue and *upkar* of ₹ 2.43 crore collected between October 2006 and September 2011 by Tahsil offices was deposited in *Panchayat Raj* Fund rather than in the treasury under the Major head '0029'- Land Revenue. Thus, the exchequer was deprived of revenue of ₹ 2.43 crore. No information regarding recovery of land revenue and *upkar* from *Panchayat Raj* Fund of similar cases pointed out in earlier Audit reports has been received.

After we pointed this out, Tahsildar Aaron (Guna), Alot (Ratlam), Badnawar (Dhar), Chanderi (Ashoknagar), Gandhwani (Dhar), Gulana (Shajapur), Hoshangabad, Jaisinghnagar (Shahdol), Kurwai (Vidisha), Malhargarh (Mandsaur), Nalkheda (Shajapur), Rajpur (Badwani) and Ujjain stated that land revenue and *upkar* would be deposited in Major Head '0029' - Land Revenue. Tahsildar Goharganj (Raisen) and Jeerapur (Rajgarh) stated that amount deposited in *Panchayat Raj* Fund would be deposited to Major Head '0029' and audit would be intimated.

We reported the matter to the Department and the Government in September 2012; their replies have not been received (March 2013).

[4] Aaron (Guna), Alot (Ratlam), Badnawar (Dhar), Chenderi (Ashoknagar), Ghandwani (Dhar), Goharganj (Raisen), Gulana (Shajapur), Hoshangabad, Jaisinghnagar (Shahdol), Jeerapur (Rajgarh), Kurwai (Vidisha), Malhargarh (Mandsaur), Nelkheda (Shajapur), Rajpur (Badwani), Ujjain.

5.8 Non realisation of revenue due to non-disposal of attached properties

Under the provisions of Section 147 of MPLRC, 1959, arrears of land revenue payable to the Government shall be recovered by the *tahsildar* by attachment and sale of movable and immovable properties of the defaulters. Further, the *tahsildar* is required to conduct quarterly review of the Attached Property register with a view to take action for early disposal of the attached property.

We observed (October 2011) during test check of the Register of Attached Properties and relevant case files in Tahsil Indore that movable and immovable properties in 13 cases were attached between October 2009 and September 2011 for recovery of a sum of ₹ 1.36 crore. We could not find any evidence that quarterly review of the attached property register was carried out by the Tahsildar. Further action was also not taken by the Department to realise the dues by disposing of the attached properties. This resulted in non-realisation of revenue of ₹ 1.36 crore.

We reported the matter to the Department and the Government between March and May 2012; their replies have not been received (March 2013).

5.9 Loss of revenue due to allotment of Government land without charging any premium and ground rent

Para 26 of RBC-IV-I read with Government circular issued in August 1998 provides that *nazul* land will be allotted to *Panchayat Raj Sanstha* for the purpose of construction of office building on payment of premium at the rate of 50 *per cent* of the market value of the land and ground rent at the rate of 5 *per cent* of the premium.

We observed (December 2011) during test check of case files of allotment of land in Collectorate (*Nazul*), Dhar that Government land measuring 0.420 hectare in village *Dahi* was allotted by the Collector (December 2010) to *Nagar Panchayat, Dahi* for the purpose of construction of an office building without charging any premium and ground rent as against the leviable premium of ₹ 1.01 crore and ground rent of ₹ 5.04 lakh per year. Thus, the Government was deprived of premium of ₹ 1.01 crore and ground rent of ₹ 5.04 lakh in 2011-12 i.e. the month following the month of order (03/2011) of the *Tahsildar* for handing over of possession to the *Nagar Panchayat*.

After we pointed out the case, the officer in charge (*nazul*) stated in December 2011 that there was no mention in para 26 of RBC about charging premium and ground rent on the land allotted for the office building. We do not agree with the reply because premium and ground rent were chargeable in accordance with the Government circular dated 25 August 1998. Moreover no exemption from payment of premium/ground rent was provided in the RBC or by the Government.

We reported the matter to the Department and the Government (May and June 2012); their replies have not been received (March 2013).

5.10 Non levy of service charges

In order to grant incentives to the officers and staff engaged in land acquisition work and re-imburse the expenditure incurred in this regard, the Government decided in July 1991 to collect service charges at the rate of 10 *per cent* of the amount of award from the departments/organisations on whose behalf land acquisition was to be done. Before starting the proceedings for land acquisition, 10 *per cent* of the estimated amount of award was to be got deposited from the concerned departments/ organisations. After the final award, balance of service charges (calculated on the difference of final award and estimated award) was also to be recovered. The amount so recovered was to be remitted to Government account under the major head 0029 - Land Revenue.

We observed (November 2011) during test check of the records relating to land acquisition in Collectorate, Ujjain that in two cases though the land award had been finalised in 2010-11, the service charges of ₹ 1.24 lakh were not remitted to the head of account -0029- Land Revenue. Further, in three cases, although the proceedings for land acquisition had been started between February and December 2010, the service charges of ₹ 60.82 lakh on the estimated value of the award of ₹ 6.08 crore were not recovered. Thus, the exchequer was deprived of revenue of ₹ 62.06 lakh due to non remittance/levy/ realisation of service charges. The details are shown below:

Sl. No.	Name of the Department/ Undertaking	Work proposed	Case No./ Year	Amount of Award/estimated value of award	Service charge recoverable (at the rate of 10%)
1.	Public Works Department	Construction work for *Mangi Ghat*	1/A-82 2009-10	6,53,159 (award value)	65,315
2.	Public Works Department	Construction work for *Tarana Tilawad Marg*	1/A-82 2009-10	5,87,229 (award value)	58,723
3.	Public Works Department	Construction work for *Jarasia panth to Narayan Marg*	1-5/A-82 2010-11	30,00,000 (estimated value)	3,00,000
4.	Water Resources Department	Construction work for *Shankarpur talab Rajaheda & Panwihar*	1/A-82 2009-10	1,16,75,000 (estimated value)	11,67,500
5.	M.P. Road Development Corporation Ltd.	Construction work for B.O.T. Road	1/A-82 2009-10	4,61,48,418 (estimated value)	46,14,842
Total				**62063806**	**62,06,380**

The matter was reported to the Department, and the Government between April and May 2012; their replies have not been received (March 2013).

5.11 Non recovery of process expenses

The MP *Lokdhan* (*Shodhya Rashiyon Ki Vasuli*) *Adhiniyam*, 1987 (MPLA) and Madhya Pradesh Land Revenue Code (MPLRC) provides that the recovery officer will register the revenue case in the Revenue Recovery Certificate (RRC) Register after receipt of the Revenue Recovery Certificate and issue the demand notice within 15 days. The demand notice includes principal amount with cost of proceedings and interest on the sum due at the rate specified in the agreement, upto the date of recovery. According to the *Adhiniyam* and rules made thereunder, process expense at the rate of three *per cent* of the principal amount is leviable.

We observed (between May 2011 and January 2012) during test check of the statements of recovery of 10 *Tahsil* Offices[5], that process expenses of ₹ 77.37 lakh was recoverable on the principal amount of ₹ 25.79 crore recovered against RRCs during the period from 2002-03 to 2010-11. However the Department did not include the process expenses while issuing the notices of demand, as a result of which the same was not recovered from the defaulters. This resulted in non-realisation of process expenses of ₹ 77.37 lakh.

We reported the matter to the Department and the Government between February and May 2012; their replies have not been received (March 2013).

5.12 Underassessment of diversion rent and premium

Under Section 59 of the MPLRC, 1959, where land assessed for one purpose is diverted for any other purpose, the land revenue (premium and diversion rent) payable on such land shall be revised and reassessed in accordance with the purpose for which it has been diverted from the date of such diversion at the rates fixed by the Government.

We observed (between May and December 2011) during test check of diversion cases in four Collectorates (Diversion)[6] that there was underassessment of diversion rent and premium in 18 cases of diversion decided between February 2007 and September 2011. This resulted in short-realisation of premium and diversion rent of ₹ 21.12 lakh.

The details are given in the following table:

[5] Aaron (Guna) 1.56/51.88 lakh, Baraseoni (Balaghat) 4/133.31 lakh, Beohari (Shahdol) 2.01/67.04 lakh, Bhagwanpura (Khargone) 1.25/41.67 lakh, Chanderi (Ashoknagar) 1.38/45.94 lakh, Chhindwara 3.48/115.90 lakh, Hazur (Bhopal) 10.27/342.36 lakh, Indore 48.72/1623.97 lakh, Kurwai (Vidisha) 0.55/18.34 lakh and Shahpura (Jabalpur) 4.15/138.32 lakh.

[6] Dhar, Indore, Ratlam and Ujjain.

Sl. No.	Unit/ Period	No. of cases	Area involved	Audit observation	Short assessment of Premium & Diversion rent (₹)
1.	Collectorate (Diversion) Dhar 10/2010 to 9/2011	3	5.406 Hect.	Assessment was not done as per area approved by Town and Country Planning Department. The Department assessed premium and diversion rent on less area (2.4589 Hect.)	4,73,530
		5	11.651 Hect.	The Department applied incorrect rates of premium in four cases and residential diversion rate instead of commercial diversion rate in one case.	2,50,684
2.	Collectorate (Diversion), Ratlam 10/2010 to 9/2011	1	1.649 Hect.	Assessment was not done as per area approved by Town and Country Planning Department. The Department assessed premium and diversion rent on less area (0.617 Hect.).	71,764
		4	7.332 Hect.	The Department applied incorrect rates of diversion in four cases and incorrect rate of premium in one of those four cases.	1,12,615
3.	Collectorate (Diversion), Ujjain 10/2010 to 9/2011	1	3.135 Hect.	Assessment was not done as per area approved by Town and Country Planning Department. The Department assessed premium and diversion rent on less area (2.769 Hect.).	6,48,246
4.	Collectorate (Diversion), Indore 10/2010 to 9/2011	4	21.198 Hect.	Assessment was not done as per area approved by Town and Country Planning Department. The Department assessed premium and diversion rent on less area (3.419 Hect.).	5,54,798
Total					**21,11,637**

The matter was reported to the Department and the Government (between February and June 2012); their replies have not been received (March 2013).

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter, we present illustrative cases of ₹ 32.71 crore selected from observations noticed during our test check of records relating to non/short levy, non/short realisation etc. on Stamp duty and Registration fees in the office of the Sub Registrars (SRs) where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.
Tax collection	In 2011-12, the collection from Stamps and Registration fees increased by 30.63 *per cent* over the previous year, due to registration of more documents and rise in the market value of immovable properties.
Very low recovery by the Department of observations pointed out by us in earlier years	During the period from 2006-07 to 2010-11, we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 162.91 crore in 26,111 cases. Of these, the Department/Government had accepted audit observations in 17,774 cases involving ₹ 77.93 crore and had since recovered ₹ 12.51 crore in 2,059 cases. The recovery position as compared to acceptance of objections was low ranging from 2.93 *per cent* to 27.59 *per cent*.
Results of audit conducted by us in 2011-12	In 2011-12, we test checked records of 51 units relating to Stamps and Registration fees and found underassessment of tax and other irregularities involving ₹ 60.16 crore in 1,867 cases. The Department accepted underassessment and other deficiencies of ₹ 11.57 crore in 868 cases, which were pointed out by us during the year 2011-12. An amount of ₹ 7.98 lakh was recovered in nine cases during the year 2011-12.
Our conclusion	The Department needs to improve the internal control system including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future. It also needs to initiate immediate action to recover the amount on account of non/short levy of Stamp duty and Registration fees pointed out by us, more so in those cases where it has accepted our contention.

CHAPTER - VI

CHAPTER-VI
STAMPS AND REGISTRATION FEES

6.1 Tax administration

Registration and Stamps Department is under the Commercial Tax Department headed by the Principal Secretary. The Inspector General, Registration and Superintendent of Stamps, Madhya Pradesh (IGR) is the head of the Department. Two Joint Inspectors General, Registration (JIGR), one Deputy Inspector General Registration (DIGR), one Senior District Registrar (SDR), one District Registrar (DR) and one Accounts officer (AO) are deployed at the headquarters. There are 48 Registration Districts notified in the State. There is a SDR in 15 Registration districts and a DR in the remaining districts. There are 226 Sub Registrar (SR) offices in the State. Instruments are registered in SR offices. Collector is the head of Registration administration at the district level. There are two major components of receipts of the Registration Department in Madhya Pradesh *viz:* Stamp duty and Registration fees, the collection of which are regulated under the provisions of the following Acts and Rules and notification issued thereunder:

- Indian Stamp Act, 1899;
- The Registration Act, 1908;
- Indian Stamp (Madhya Pradesh Prevention of Undervaluation of Instruments) Rules, 1975;
- Madhya Pradesh Preparation and Revision of Market Value Guidelines Rules, 2000;
- Madhya Pradesh Stamp Rules, 1942;
- Madhya Pradesh Municipal Corporation Act, 1956;
- Madhya Pradesh Municipalities Act, 1961;
- Madhya Pradesh *Panchayat Raj Adhiniyam*, 1993; and
- Madhya Pradesh *Panchayat Upkar Adhiniyam*, 1982

6.2 Trend of receipts

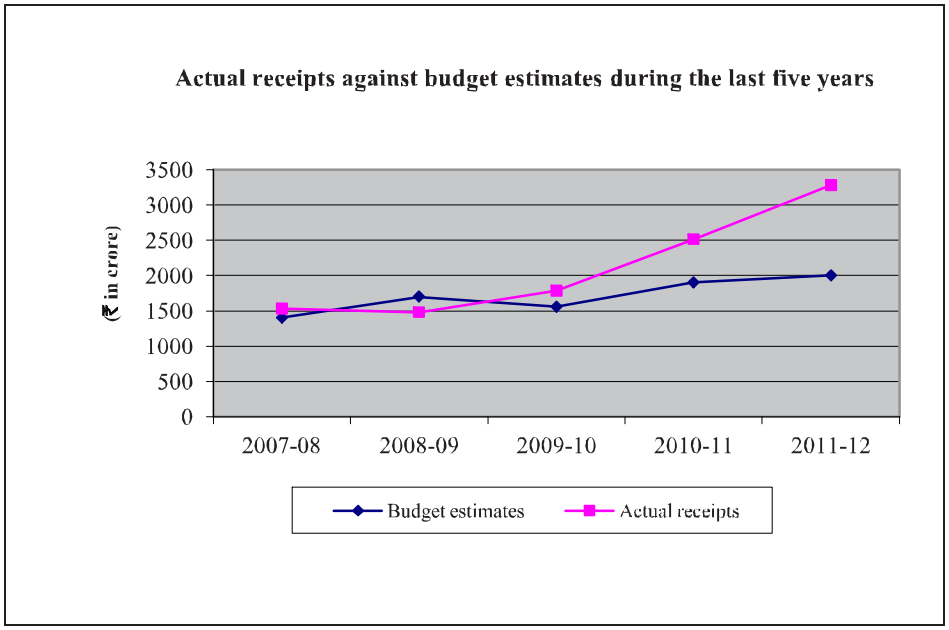
Actual receipts from Stamps and Registration fees during the period 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following table and line graph:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual tax receipts vis-a-vis total tax receipts
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2007-08	1,400	1,531.54	(+) 131.54	(+) 9.40	12,017.64	12.74
2008-09	1,700	1,479.29	(-) 220.71	(-) 12.98	13,613.50	10.87
2009-10	1,560	1,783.15	(+) 223.15	(+) 14.30	17,272.77	10.32

(1)	(2)	(3)	(4)	(5)	(6)	(7)
2010-11	1,900	2,514.27	(+) 614.27	(+) 32.33	21,419.33	11.74
2011-12	2,000	3,284.41	(+) 1284.41	(+) 64.22	26,973.44	12.18

(***Source:*** *Budget estimates and Finance Accounts of the Government of Madhya Pradesh)*



It may be seen that though there was an increasing trend in receipts during the years from 2009-10 to 2011-12, the percentage of variation between the BEs and the actual receipts ranged between (-) 12.98 *per cent* and (+) 64.22 *per cent*. In 2011-12, the collection from Stamps and Registration fees increased by ₹ 770.14 crore (30.63 *per cent*) over the previous year, which was attributed by the Department to increase in market value of the immovable properties as well as in the number of registered documents.

6.3 Impact of audit

6.3.1 Position of Inspection Reports (IRs)

During the period 2006-07 to 2010-11, through our IRs we had pointed out non/short levy, non/short realisation, underassessment/loss of Stamp duty and Registration fees due to incorrect determination of market value of properties, misclassification of documents, irregular exemption, inordinate delay in finalisation of cases referred by SRs, etc. with revenue implication of ₹ 162.91 crore in 26,111 cases. Of these, the Department/Government had accepted audit observations in 17,774 cases involving ₹ 77.93 crore and had since recovered ₹ 12.51 crore in 2,059 cases (30 November 2012). The details are shown in the following table:

(₹ in crore)

Year of Inspection Reports	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2006-07	69	4,980	10.16	1,904	6.91	383	1.49	21.56
2007-08	66	3,021	16.10	1,607	5.40	537	1.49	27.59
2008-09	82	10,113	52.42	8,374	29.96	698	7.87	26.27
2009-10	64	5,809	31.95	4,415	8.05	154	0.85	10.56
2010-11	64	2,188	52.28	1,474	27.61	287	0.81	2.93
Total		**26,111**	**162.91**	**17,774**	**77.93**	**2059**	**12.51**	

The percentage of recovery as compared to the accepted cases has been low over during the last five years. We brought this issue to the notice of the head of the Department as well as the Finance Secretary of the Government (August 2012). Their replies have not been received (March 2013).

6.3.2 Position of Audit Reports

In the Audit Reports 2006-07 to 2010-11, we had pointed out non/short levy, non/short realisation, underassessment/loss of Stamp duty and Registration fees due to incorrect determination of market value of properties, misclassification of documents, irregular exemption, inordinate delay in finalisation of cases referred by SRs, etc. with revenue implication of ₹ 159.77 crore in 40 paragraphs. Of these, the Department/Government had accepted audit observations in 31 paragraphs involving ₹ 82.87 crore and had since recovered ₹ 8.77 crore in 20 paragraphs. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Number of paragraphs	Money value	No. of accepted paragraphs	Money value of accepted paragraphs	No. of paragraphs against which recovery made	Amount recovered upto 31.03.12
2006-07	6	2.45	6	1.62	4	0.31
2007-08	1	91.57	1	45.76	1	5.61
2008-09	11	16.81	10	16.35	7	2.15
2009-10	9	14.72	7	7.93	4	0.56
2010-11	13	34.22	7	11.21	4	0.14
Total	**40**	**159.77**	**31**	**82.87**	**20**	**8.77**

The percentage of recovery as compared to the accepted cases has been extremely low during the last five years.

We recommend that the Government should take appropriate steps to improve the recovery position at least against the accepted cases.

6.4 Cost of collection

The gross collection from Stamps and Registration Fees, expenditure incurred on its collection and the percentage of expenditure to gross collection during the years 2009-10, 2010-11 and 2011-12 along with the relevant all-India

average percentage of expenditure on collection for the previous year are mentioned below:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the previous year
2009-10	1,783.15	37.02	2.08	2.77
2010-11	2,514.27	48.98	1.95	2.47
2011-12	3,284.41	63.71	1.94	1.60

(Source : Finance Accounts of the Government of Madhya Pradesh)

The percentage of expenditure on collection was considerably below the all-India average during the years 2009-10 and 2010-11. However, the same was higher than the all-India average during the year 2011-12.

We recommended that the Department may take steps to maintain the percentage of expenditure on collection below the all-India average.

6.5 Working of internal audit wing

Four posts of Internal Audit Officer and one post of Accounts Officer have been sanctioned for the internal audit wing (IAW) of the Department. At present three Internal Audit Officers and one Accounts Officer are working in the IAW. Internal Audit is conducted in accordance with the roster prepared for each year.

Out of 226 units of the Department, 81 units were planned for internal audit out of which 31 units were inspected by the IAW. Inspection notes were issued by the IAW. The Department issued instructions to the Collector of Stamps to take action for rectification of discrepancies noticed by the IAW.

6.6 Results of audit

Test check of the records of 51 units relating to Stamps and Registration fees during the year 2011-12 indicated underassessment of tax and other irregularities involving ₹ 60.16 crore in 1,867 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Loss of revenue due to inordinate delay in finalisation of cases	361	6.69
2.	Short realisation of Stamp duty and Registration fees due to undervaluation of properties/incorrect exemption	737	15.10
3.	Loss of revenue due to misclassification of instruments	62	0.86
4.	Other observations	707	37.51
Total		**1,867**	**60.16**

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 11.57 crore in 868 cases, which were pointed out in

audit during the year 2011-12. An amount of ₹ 7.98 lakh was realised in nine cases during the year 2011-12.

A few illustrative audit observations involving an amount of ₹ 32.71 crore are mentioned in the following paragraphs:

6.7 Incorrect determination of market value/non-finalisation of cases

Under Section 47-A of the Indian Stamp (IS) Act, 1899, if the Registering Officer, while registering any instrument finds that the market value of any property set forth was less than the market value shown in the market value guidelines, he should before registering such instrument, refer the same to the Collector for determination of the correct market value of such property and duty leviable thereon. Further, according to the departmental instructions of July 2004, a maximum period of three months has been prescribed for disposal of cases referred to the Collector by the Sub-registrar (SR) offices for determination of correct market value of properties and duty leviable thereon. Besides, market value of the property is calculated according to rates and provisions prescribed in the market value guidelines.

6.7.1 We observed in nine Sub Registrar offices[1] between February and December 2011 from the register of cases referred by Sub Registrars that 519 cases were referred by the Sub Registrars to the Collector between September 2008 and March 2011 for determination of the market value of the properties. Out of these, 259 cases had not been finalised, though periods upto 29 months had already elapsed beyond the expiry of the prescribed period. In these cases, the difference of Stamp duty and Registration fees as worked out by the Sub Registrars was ₹ 4.98 crore.

After we pointed out the cases, the District Registrar (DR), Vidisha stated (September 2011) in respect of 16 cases that the cases would be disposed of early. DR, Betul intimated between March and August 2012 in respect of 12 cases that nine cases were decided between September 2011 and June 2012 and ₹ 7.98 lakh was recovered between September 2011 and June 2012. However, the status of disposal of remaining three cases is awaited. In the remaining 231 cases, the respective SRs stated between February and December 2011 that the Collector of Stamps would be requested for early disposal of the cases. Further progress in the matter has not been received (March 2013).

6.7.2 We observed in 15 Sub Registrar (SR) offices[2] between June 2011 and February 2012 that in 306 instruments registered between April 2008 and March 2011, the market value according to guidelines was ₹ 129.20 crore against the registered value of ₹ 98.10 crore. The SR did not refer these instruments to the Collector for determination of the correct value of the properties and duty leviable thereon. This resulted in short levy of Stamp duty and Registration fees of ₹ 2.58 crore as mentioned in the following table:

[1] Badnagar (District Ujjain), Betul, Guna, Indore, Jabalpur, Mhow (District Indore), Obedullahganj (District Raisen), Sagar and Vidisha.

[2] Badnagar (Ujjain), Betul, Bhopal, Guna, Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Mhow (Indore), Obedullaganj (Raisen), Sagar, Shivpuri, Sirmaur (Rewa) and Vidisha.

(₹ in lakh)

Sl. No.	No. of SR offices/ instruments	Period of registration	Nature of irregularities	Stamp duty & Registration fees Leviable/ Levied	Short levy of Stamp duty & Registration fees
1.	12 213	Between 4/2008 and 3/2011	Non-observance of provisions prescribed in guidelines	734.81 563.79	171.02
2.	13 72	----do----	Incorrect application of rates	269.78 198.47	71.31
3.	7 13	-----do----	Property valued partly	126.96 117.25	9.71
4.	5 8	Between 5/2010 and 3/2011	Other irregularities	50.561 44.96	5.60
Total	**15** **306**			**1,182.11** **924.47**	**257.64**

After we pointed out the cases, the District Registrar (DR), Shivpuri and Vidisha stated between September 2011 and March 2012 in respect of 15 instruments that cases against the executants had been registered in August 2011 and action was in progress. Five SRs [3] stated between July 2011 and February 2012 in respect of 72 instruments that the market value determined was correct. The reply is contrary to the facts on record and provisions of the market value guidelines. SR Indore stated (November 2011) in respect of one instrument that reply would be given after scrutiny, while in respect of remaining 218 instruments, the respective SRs stated between June 2011 and February 2012 that the cases would be referred to the Collector of Stamps/necessary action would be taken. Further progress has not been received (March 2013).

The Market Value Guidelines applicable for the year 2008-09 provides that the value of land situated on any National Highway will be 100 *per cent* higher than arrived at the normal rates prescribed for such land.

6.7.3 We observed in SR Office, Betul in July 2011 that a gift deed executed in February 2009 was registered in August 2009. The recitals of the instrument revealed that a land measuring 1.822 hectare situated on National Highway (NH-69) in Ambedkar ward was the subject matter of the gift. The value of the property was mentioned by the executant as ₹ 18.21 lakh and the instrument was executed on stamp papers worth ₹ 1.80 lakh. The SR referred the case to the Collector of Stamps (COS) for determination of the market value and Stamp duty leviable on the instrument. He proposed the market value of the land at ₹ 41.12 lakh as against ₹ 92.88 lakh worked out by audit in accordance with the guidelines. We observed that the market value of the land was computed by the SR treating the area of land as 1.687 hectare instead of 1.822 hectare and the fact that the land was situated on NH-69 was also ignored by him,

[3] Bhopal, Indore, Jabalpur, Obedullahganj (Raisen) and Sirmaur (Rewa).

which resulted in undervaluation of land. The COS determined (June 2009) the value as proposed by the SR. Thus, the undervaluation of the land resulted in short levy of Stamp duty and Registration fees of ₹ 5.52 lakh.

After we pointed out the case, the DR Betul stated (March 2012) that the case had been registered against the executants and action was in progress. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

6.8 Short levy of Stamp duty and Registration fees on lease deeds/lease cum sale deeds

Article 33 of Schedule 1-A of the IS Act, 1899, provides for levy of stamp duty on lease deeds at the rates prescribed therein. Further, according to Article II of the Registration Table under the Registration Act, 1908, registration fee at three fourths of the stamp duty is chargeable on such instruments.

We observed in five Sub Registrar (SR) Offices[4] between June 2011 and February 2012 that in case of 28 documents of lease/lease cum sale deed[5] registered between August 2009 and March 2011, Stamp duty and Registration fees of ₹ 2.63 crore was leviable but the registering authority levied ₹ 1.35 crore only by taking a lesser period of lease in four cases and there was under-assessment of duty and fee in 23 cases, while in one case custom built up charges to be paid by the lessee i.e. premium was not considered by the SR for levy of duty. This resulted in short realisation of Stamp duty and Registration fees of ₹ 1.28 crore.

After we pointed out the cases, the DR Sagar stated (March 2012) in respect of one instrument that the case against the executant had been registered and action for disposal was in progress. In respect of the remaining 27 instruments, the respective SRs stated between June 2011 and February 2012 that the cases would be referred to the Collector of Stamps/necessary action would be taken. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

[4] Bhopal, Gwalior, Indore, Morena and Sagar.

[5] 26 lease deeds and two lease cum sale deed.

6.9 Short levy of Stamp duty and Registration fees on instruments of assignment of debt

Article 22 (b) of Schedule 1-A to the IS Act, 1899 provides for levy of stamp duty at the rate of 0.5 *per cent* on the amount of debt assigned on the instruments of assignment of debt. Besides, Government notification dated 7 March 2005 provides for levy of duty on instruments of securitisation of loan or assignment of debt with underlying securities executed in favour of a Securitisation Company or a Reconstruction Company registered under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 at the rate of 0.1 *per cent* of the loan securitised or debt assigned with underlying securities, if the securities are immovable properties. Further, *Panchayat* duty and Municipal duty at the rate of one *per cent* is also leviable on such instruments under section 133(a) of M.P. Municipal Corporation Act, 1956 and section 75 of the M.P. *Panchayat Raj Adhiniyam*, 1993 respectively. Further, *Upkar* is also leviable under M.P. *Panchayat Upkar Adhiniyam*, 1982.

We observed in Sub Registrar office, Indore in December 2011 that four instruments of assignment of debt of ₹ 55.88 crore in respect of movable and immovable properties executed in favour of an Asset Reconstruction Company were registered in January 2011. Stamp duty and Registration fees of ₹ 1.62 crore was leviable on these instruments according to the above provisions. We, however, noticed that Stamp duty and Registration fees of ₹ 21.33 lakh only was levied on the amount of consideration instead of amount of debt assigned. *Panchayat* duty/Municipal duty and *Upkar* was also not levied on these instruments. This resulted in short levy of Stamp duty and Registration fees of ₹ 1.41 crore.

After we pointed out the cases, Sub Registrar stated (December 2011) that cases would be referred to the Collector of Stamps. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

6.10 Short levy of Stamp duty and Registration fees due to misclassification

Under the IS Act, 1899, stamp duty is leviable on instruments according to their recital at the rates specified in Schedule 1-A or prescribed by the Government through notifications. Departmental instructions (September 2005) provide that duty on instruments styled as agreement to sell, release and settlement shall be chargeable at the rate of conveyance deed if the conditions specified in the instructions are not fulfilled and prescribed entries are not mentioned in the instruments. Further, Section 2 (15) (iii) of the Act provides that "instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property severally. It also includes any instrument signed by the co-owners and recording, whether by way of declaration of such partition or otherwise, the terms of such partition amongst the co-owners.

We observed in six Sub Registrar Offices[6] between July 2011 and January 2012 that there was misclassification of documents in 40 cases resulting in short levy of Stamp duty and Registration fees of ₹ 92.54 lakh as mentioned below:

(₹ in lakh)

Sl. No.	No. of cases Registered between	Nature of irregularity	Stamp duty and registration fee leviable/ levied	Stamp duty and Registration fees short levied
1.	14 May2009 and March 2011	Agreement to sell without mention of possession was treated as agreement to sell without possession.	48.29 5.34	42.95
2.	8 July 2010 and February 2011	Conveyance deed was treated as Co-ownership deed.	11.38 3.32	8.06
3.	2 May 2009 and June 2010	Gift deed was treated as Release deed.	4.50 1.46	3.04
4.	10 April 2009 and March 2011	Conveyance deed was treated as Release deed.	8.38 3.75	4.63
5.	5 May 2010 and February 2011	Instruments relating to several distinct matters were treated as instruments of single matter.	86.09 64.46	21.63
6.	1 March 2011	Gift deed was treated as Partition deed.	14.59 2.36	12.23
Total	**40 cases**		**173.23** **80.69**	**92.54**

After we pointed out the cases, the District Registrar, Vidisha stated (September 2011) in respect of 11 instruments that cases had been registered against the executants and action was in progress. SR Sagar stated

[6] Bhopal, Gwalior, Indore, Morena, Sagar and Vidisha.

(August 2011) in respect of one instrument that it was an agreement to sell the property without possession. We do not agree with the reply as it was not mentioned in the documents that possession of the property has not been given or possession would not be given before execution of sale deed. SR Gwalior stated (June 2011) in respect of one instrument that where partition was oral, there was no chargeability of duty on mentioning of partition in the instrument. The reply is contrary to the provisions of section 2 (15) of IS Act. SR Bhopal stated (January 2012) in respect of one instrument that the executants were co-owners having equal share and therefore, duty was charged at the rate applicable to release deed on 5/6th share of the property. The reply is contrary to the facts on record as according to the recitals of the instrument, 50 *per cent* share belonged to the father and the remaining portion belonged to the father with other co-owners. As such, the document should have been classified as gift cum release deed. In respect of the remaining 26 instruments, the respective SRs stated between June 2011 and January 2012 that the cases would be referred to the Collector of Stamps/necessary action would be taken. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

6.11 Non-registration of instruments

Article 5(d) of Schedule 1-A to the IS Act provides for levy of stamp duty at the rate of two *per cent* of the market value of the land on an agreement if it is related to the construction of a building on the land by a person other than the owner or lessee of such land and having the condition that after construction, such building shall be held jointly or severally by the other person and the owner or that it shall be jointly or severally sold by them. Further, such instruments are to be compulsorily registered under the Registration Act, 1908.

6.11.1 We observed in Sub Registrar office, Obedullahganj (District Raisen) in August 2011 that in a sale deed registered in April 2010, the constructed property was sold jointly by the builder and the landowner. During scrutiny of the recitals of the document, it was noticed that there was an agreement between the builder and the landholder that the constructed property would be held and sold jointly by them. This agreement is a compulsorily registerable document under Section 17 of the Registration Act, 1908. However, the agreement involving land measuring 3.051 acres, valued at ₹ 3.95 crore in accordance with market value guidelines, was not got registered. This resulted in non-realisation of Stamp duty and Registration fees of ₹ 11.07 lakh.

After we pointed out the case in August 2011, the Sub Registrar, Obedullahganj stated (August 2011) that the matter would be referred to the District Registrar, Raisen to take appropriate action for getting the agreement registered. Further progress in the matter has not been received (March 2013).

Article 38(b) of Schedule 1-A to the IS Act, 1899 read with Government notification dated 24.09.2007 and section 75 of the Madhya Pradesh *Panchayat Raj Adhiniyam*, 1993 provides for levy of duty on a mortgage deed without possession at the rate of 1 *per cent* of the amount secured by such deed. Further, rule 12 of Madhya Pradesh Nagar Palika (*Coloniser ka Registrikaran Nirvandhan tatha sharten*) *Niyam*, 1998 provides that a coloniser has to develop the land in accordance with the norms prescribed therein and has to mortgage 25 *per cent* of the land/plot in favour of competent authority as a security against the expenditure on development of the land. According to Section 17 of the Registration Act, 1908, the instruments of mortgage deeds are to be compulsorily registered.

6.11.2 We observed from the records in Sub Registrar office, Jabalpur and on the basis of information collected from the Municipal Corporation, Jabalpur in September 2011 that permission for development of land was granted by the Corporation to the colonisers in 28 cases between April 2010 and June 2011, according to which land measuring 30.608 hectare involving estimated development expenditure of ₹ 13.47 crore[7] was to be developed by the colonisers. Though the colonisers had mortgaged 25 *per cent* of plots during this period, neither was any duty paid by the colonisers nor did they get these instruments registered. This resulted in non levy/realisation of Stamp duty and Registration fees of ₹ 24.29 lakh.

After we pointed out the cases in September 2011, the Sub Registrar, Jabalpur stated in September 2011 that the Municipal Corporation would be contacted through the District Registrar and appropriate action would be taken. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

[7] Furnished by Municipal Corporation, Jabalpur

6.12 Short levy of Stamp duty and Registration fees on instruments of power of attorney

Article 45 (d) of Schedule 1-A to the IS Act provides that when Power of Attorney (POA) is given without consideration authorising the agent to sell, gift, exchange or permanently alienate any immovable property situated in Madhya Pradesh for a period not exceeding one year, duty of ₹ 100 is chargeable on such instruments. Further, when such rights are given with or without consideration for a period exceeding one year or when it is irrevocable or when it does not purport to be for any definite term, the same duty as a conveyance on the market value of the property is chargeable on such instruments.

We observed in eight Sub Registrar offices[8] between February and September 2011 that out of 27 instruments of POA registered between April 2008 and February 2011, in 16 documents, though the power to sell, gift, exchange or permanent alienation of immovable property was given, there was no mention in the documents to show whether the POA was given without consideration for a period not exceeding one year, while in eight instruments, the POA was irrevocable and in three instruments the rights were given for a period of more than one year. In these cases, Stamp duty and Registration fees of ₹ 24.52 lakh was leviable in accordance with the above provision. We, however, noticed that in all these cases, the instruments were treated as POA to sell without consideration for a period not exceeding one year and duty was levied at the rate of ₹ 100 in each case. This resulted in short levy of Stamp duty and Registration fees of ₹ 24.47 lakh.

After we pointed out the cases between May 2011 and September 2011, District Registrars, Sagar, Shivpuri and Vidisha stated between August 2011 and March 2012 in respect of nine instruments that cases had been registered against the executants and action was in progress. SR Badnagar stated (February 2011) in respect of two instruments that necessary action would be taken after scrutiny. In respect of the remaining 16 instruments, the respective Sub Registrars[9] stated between May and July 2011 that the cases would be referred to Collector of Stamps. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

[8] Badnagar (Ujjain), Betul, Guna, Gwalior, Morena, Sagar, Shivpuri and Vidisha.

[9] Betul, Guna, Gwalior and Morena.

6.13 Short levy of Stamp duty and Registration fees due to non-mentioning of facts affecting duty in instruments

Under Section 47-A of the IS Act, 1899, if the registering officer, while registering any instrument finds that the market value of any property set forth was less than the market value shown in the market value guidelines, he should, before registering such instrument, refer the same to the Collector for determination of the correct market value of such property and duty leviable thereon. Further, Section 27 of the IS Act, 1899 provides that the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

We observed in Sub Registrar office, Morena in July 2011 that in two instruments registered between October and November 2010, the location of the property was not fully and truly mentioned in the instruments. In document No. 5817 dated 27.10.2010, it was stated that the property was a half furlong[10] away from the main road. Scrutiny of the sale deed however revealed that the property sold through this document was adjoining the property sold through document No. 5815 dated 27.10.2010, according to which the property was situated within six meters of the main road. As such, the plot was required to be valued at the rates applicable for plots situated on the main road which worked out to ₹ 59.30 lakh, as against the registered value of ₹ 5.93 lakh. In the other case, in document No. 6515 dated 26.11.10, it was mentioned that the property sold was situated at *'Bansi Rahees ka Kharanja'* in ward No. 12 whereas the boundaries of the property mentioned in the document revealed that the property was situated on 'Nala No. 2 road of 40 feet'. The market value guidelines indicated that this location was in ward No. 13, according to which the value of the property worked out to ₹ 1.17 crore, as against the registered value of ₹ 24 lakh. Thus, the Government was deprived of Stamp duty and Registration fees of ₹ 15.22 lakh due to non-mentioning of correct facts regarding the location of the property/incorrect determination of market value of the property.

After we pointed out the cases in July 2011, Sub Registrar Morena stated in July 2011 that the cases would be referred to the Collector of Stamps. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

[10] Half furlong = 100.584 meter

6.14 Incorrect rebate of Stamp duty on sale deeds

Article 22 (g) of Schedule 1-A of the IS Act provides that where by an instrument, a property is conveyed fully or partially to a female transferee or transferees, the rate of stamp duty applicable shall be two *per cent* less than the rate of stamp duty payable under this Article on the share of property transferred and described clearly in the instrument in favour of the transferee or the transferees, as the case may be.

We observed in three SR offices[11], between June and November 2011, that two *per cent* exemption from payment of Stamp duty as applicable in case of female transferees was granted to companies/ firms on 18 sale deeds registered between August 2009 and March 2011 for reasons not on record. Besides, in one case in SR Gwalior, the property was jointly purchased by a man and a woman. The female purchaser held a share of 50 *per cent* share in the property. As such, the prescribed rebate for the female purchaser was to be granted only on 50 *per cent* of the property. However, rebate was irregularly granted on the whole property. This resulted in short levy of Stamp duty of ₹ 13.93 lakh.

After we pointed out the cases between June 2011 and November 2011, the District Registrar, Vidisha stated (September 2011) in respect of five instruments that the cases were registered against the executants under Section 48 (b) and action was in progress. Sub Registrar, Gwalior accepted (June and July 2011) the audit observation in respect of 12 instruments. SR Indore stated (November 2011) in respect of the remaining two instruments that the cases would be referred to the Collector of Stamps for recovery. Further report in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

[11] Gwalior, Indore and Vidisha.

6.15 Short levy of Stamp duty/incorrect exemption from payment of Stamp duty on agreement/memorandum relating to deposit of title deed

The stamp duty on an agreement relating to deposit of title deed is levied at the rate prescribed from time to time under Article 6(a) of Schedule I-A of the IS Act. *Panchayat* duty equal to stamp duty is also leviable on such deeds. Further, according to explanation below Article 6(a), any letter, note, memorandum or writing relating to deposit of title deed, whether it is in respect of first or any additional loan, is deemed to be an instrument evidencing an agreement relating to the deposit of title deed. Further, duty is chargeable on additional amount only if the duty was paid on the previous loan. The Government in its notification dated 20 October 2004 provided for remission/reduction in Stamp duty chargeable on instruments of mortgage without possession executed by the industrialists in connection with obtaining term loan for the purpose of setting up a new industry or for the expansion of an existing industry.

We observed in four Sub Registrar (SR) offices[12] between June and December 2011 that in 20 cases, memorandum or writings related to deposit of title deeds securing an amount of ₹ 28.75 crore were registered between August 2008 and December 2010 on which Stamp duty of ₹ 15.56 lakh was leviable. However, we noticed that Stamp duty of ₹ 6.52 lakh only was levied on 18 instruments by applying incorrect rates/by charging duty only on the additional amount of agreement though there was no mention in the instrument that duty was paid on the previous loan taken. In the remaining two instruments in SR office, Betul payment of duty was incorrectly exempted under the notification dated 20 October 2004 though the document of deposit statement of title deeds were not covered in the notification. Thus, the Government was deprived of revenue of ₹ 9.04 lakh due to short levy of/incorrect exemption from payment of Stamp duty.

After we pointed out the cases between June 2011 and December 2011, the District Registrar Vidisha stated (September 2011) in respect of nine instruments that cases had been registered against the executants and action was in progress. Sub Registrar, Betul and Obedullahganj stated (between July and August 2011) in respect of eight instruments that cases would be referred to the Collector of Stamps. The Sub Registrar, Indore stated (between November and December 2011) in respect of the remaining three instruments that necessary action would be taken after verification from banks. Further progress in the matter has not been received (March 2013).

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

[12] Betul, Indore, Obedullahganj (Dist. Raisen) and Vidisha.

6.16 Non realisation of Stamp duty on amalgamation of companies

Government notification No. (17) B-4-58/ 2005/2/five dated 13 March 2006 provides that the Stamp duty chargeable on a conveyance deed of an industrial unit as a going concern will be one *per cent* of the value of plant, machinery and other movable assets transferred through the instrument. The maximum limit of Stamp duty levied will be ₹ 10 crore on a single instrument. Further, according to section 75 of *Madhya Pradesh Panchayat Raj Adhiniyam* 1993 and Madhya Pradesh *Upkar Adhiniyam,* 1982, *Panchayat* duty and *panchayat upkar* respectively are also leviable on such instruments at the rates prescribed therein.

During scrutiny of a mining lease registered in December 2010 and information collected from the Sub Registrar office, Neemuch in December 2011, we observed that Grasim Industries Limited was merged with Samriddhi Cement Limited according to order of the Honorable High Court, Indore Bench (March 2010). The Collector of Stamps levied ₹ 20.50 crore[13] on the transferor company on the basis of this order and the same was deposited in September 2011. We further observed that Samriddhi Cement Limited was merged with Ultratech Cement Limited according to the order of Honorable High Court, Gujarat, Ahmedabad (July 2010) and the same plant, machinery, movable assets, shares, immovable assets etc. were transferred (July 2010) to Ultratech Cement Limited as in the case of merger of Grasim Industries in Samriddhi Cement Limited (March 2010). We, however, noticed that Stamp duty was not levied and realised on the order of the High Court Gujarat regarding merger of Samriddhi Cement Limited with Ultratech Cement Limited. This resulted in non-realisation of Stamp duty of ₹ 20.50 crore.

After we pointed out the case in December 2011, the DR, Neemuch registered a case against the Company in March 2012. Further, the DR intimated (March 2013) that the disposal of the case was in progress.

We reported the matter to the Department and the Government in May 2012; their replies have not been received (March 2013).

[13] Stamp duty (₹ 10 crore), *panchayat* duty (₹ 10 crore) and *panchayat upkar* (₹ 0.50 crore).

CHAPTER - VII

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present illustrative cases of ₹ 32.30 lakh selected from observations noticed during our test check of records relating to assessment and collection of Entertainment Duty. In this Chapter we also present illustrative cases involving an amount of ₹ 35 lakh selected from observations noticed during our test check of records relating to short/non recovery of electricity duty/penalty. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.
Tax collection	In 2011-12 the collection from Taxes and Duties on Electricity increased by 20.12 *per cent* over the previous year which was attributed to the receipt of arrears pending with M.P. *Vidyut Vitaran* Companies.
Position of observations pointed out by us in earlier years	During the period from 2006-07 to 2010-11, through our Inspection Reports we had pointed out non/short levy, non/short realisation, underassessment of electricity duty etc., with revenue implication of ₹ 1,963.31 crore in 7,44,491 cases. Of these, the Department/ Government had accepted audit observations in 74,071 cases involving ₹ 1,166.97 crore and had since recovered ₹ 1,145.67 crore in 191 cases. The recovery position as compared to acceptance of objections in the year 2009-10 was 99.41 per cent whereas in the other years, it was extremely low ranging from zero per cent to 15.67 per cent.
Results of audit conducted by us in 2011-12	We test checked the records of 20 units* relating to Entertainment Duty during the year 2011-12 and found loss of revenue and other irregularities involving ₹ 50 lakh in 993 cases. The State Excise Department accepted underassessment and other deficiencies of ₹ 32 lakh in 215 cases, which were pointed out by us during the year 2011-12. An amount of ₹ 9 lakh was recovered in 33 cases during the year 2011-12.

* The audit of Entertainment Duty is conducted in the District Excise Offices. The number of units audited has also been shown in Chapter - III (State Excise).

	We also test checked the records of seven units relating to Taxes and Duties on Electricity and found underassessment of electricity duty and other irregularities involving ₹ 25.42 crore in 3,94,942 cases. Out of these, the Department accepted underassessment and other deficiencies in 60 cases of ₹ 21.30 crore.
Our conclusion	The Department needs to initiate immediate action to recover the amount on account of non/short levy of Entertainment Duty, non-realisation of inspection fee, non/short recovery of duty and penalty etc. pointed out by us, more so in those cases where it has accepted our contention.

CHAPTER – VII
OTHER TAX RECEIPTS

A ENTERTAINMENT DUTY

7.1 Tax administration

Levy and Collection of Entertainment Duty was administered by the State Excise Department till 31 March 2011. The Excise Commissioner is the head of the Department and is assisted by Additional Excise Commissioners, Deputy Excise Commissioners, Assistant Excise Commissioners and District Excise Officers, both at the headquarters at Gwalior and in the districts. In the districts, the Collector is head of the Excise administration.

Since 1 April 2011, levy and collection of Entertainment Duty is being administered by the Commercial Taxes Department of the Government of Madhya Pradesh.

Entertainment Duty is collected under the provisions of the following Acts and Rules and notifications issued thereunder:

- The Madhya Pradesh Entertainment Duty and Advertisement Tax Act, 1936
- The Madhya Pradesh Entertainment Duty and Advertisement Tax Rules, 1942
- The Madhya Pradesh Cinemas (Regulation) Act, 1952
- The Madhya Pradesh Cinemas Regulation (Advertising Vans) Rules, 1960.
- The Madhya Pradesh Cinemas (Regulation) Rules, 1972
- The Madhya Pradesh Cinemas (Exhibition of Films by Video Cassette Recorder) Licensing Rules, 1983
- The Madhya Pradesh Cable Television Network (Exhibition) Rules, 1999

7.2 Results of audit

Test check of the records of 20 units[1] relating to Entertainment Duty during the period 2011-12 revealed loss of revenue and other irregularities involving ₹ 50 lakh in 993 cases which fall under the following categories:

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[1] The audit of entertainment duty is conducted in the District Excise Offices. The number of units audited has also been shown in Chapter - III (State Excise).

(₹ in lakh)

Sl. No.	Category	Number of cases	Amount
1.	Non/short deposit of entertainment duty by the proprietors of VCRs/Cable operators	124	4.00
2.	Non-realisation of entertainment duty	34	3.00
3.	Evasion of entertainment duty due to non-accounting of tickets	31	1.00
4.	Other observations	804	42.00
Total		**993**	**50.00**

During the course of the year 2011-12, the Department accepted underassessment and other deficiencies of ₹ 32 lakh in 215 cases, which were pointed out in audit during the year 2011-12. An amount of ₹ 9 lakh was realised in 33 cases pointed out during the year 2011-12.

A few illustrative cases involving ₹ 32.30 lakh are mentioned in the following paragraphs.

7.3 Short-levy of entertainment duty

According to the notification issued by the State Government dated 5 May 2008, the rate of entertainment duty at 20 *per cent* of the amount collected in respect of every payment for admission to an entertainment other than Cinema, Video Cassette Recorder and Cable Service was prescribed.

We observed (November 2010) from the monthly returns submitted by the proprietors of various entertainments in the office of the Assistant Excise Commissioner (AEC), Indore that an amount of ₹ 2.14 crore was collected from spectators for admission to the Video Game Arcade operated by Galaxy Entertainment Corporation Limited (GECL) situated in Treasure Island Multiplex, Indore during the period from 7 August 2009 to 31 October 2010, on which entertainment duty of ₹ 35.67 lakh[2] was payable. It was however seen that entertainment duty of ₹ 12.54 lakh only was paid by the proprietor by availing exemption granted by the State Government on 4 September 2006 to Treasure Island Multiplex Complex from payment of entertainment duty. We observed that the exemption was not admissible as entertainment duty on entertainment provided in Video Game Arcade was introduced in May 2008. Therefore, action to recover the balance amount of duty of ₹ 23.13 lakh was required to be taken. No action was however taken by the Department.

We further observed in January 2012 that an amount of entertainment duty of ₹ 4.12 lakh was paid on the collected amount of ₹ 49.43 lakh for the subsequent period from November 2010 to March 2011 against the payable amount of ₹ 8.24 lakh[3] . The Department did not take any action to recover the balance amount of ₹ 4.12 lakh. This resulted in short realisation of revenue aggregating to ₹ 27.25 lakh.

After we pointed out the cases, the AEC stated (January 2012) that notice to deposit the entertainment duty of ₹ 23.13 lakh had been issued to the proprietor in September 2011. He further stated that action would be taken according to rules to recover the remaining amount of ₹ 4.12 lakh. Further report has not been received (March 2013).

We reported the matter to the Department and the Government (April 2012); their replies have not been received (March 2013).

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2 Entertainment duty payable = Sale value of tickets * Rate of duty / (100 + Rate of duty) = ₹ 214 lakh × 20 ÷ 120 = ₹ 35.67 lakh

3 ₹ 49.43 lakh × 20 ÷ 120 = ₹ 8.24 lakh

7.4 Non-levy of entertainment duty on cinema houses

The Madhya Pradesh Entertainment Duty and Advertisement Tax Act, 1936 provides that where cinematographic exhibitions are carried out in a cinema hall, no duty shall be levied on an amount not exceeding ₹ two per ticket charged on account of facilities provided to persons admitted in the cinema hall. The details of facilities provided and the amount spent thereon certified by a chartered accountant (CA) shall be presented by the proprietor of the cinema hall to the Collector of the district through the AEC/DEO latest by 30th June of the following financial year. If the Collector is not satisfied with the facilities provided, he may recover the duty in respect of the amount allowed for facilities from the proprietor of the cinema hall. As per the orders of the EC dated 30 June 2008, in case of non submission of details of facilities and amount spent thereon certified by CA, the entertainment duty on the full amount of ticket will be recovered from the proprietor of the cinema hall.

We observed (between May and November 2011) from the returns submitted by the proprietors of cinema houses to AECs, Bhopal, Sagar and District Excise Officer (DEO) Shivpuri that proprietors of 17 cinema houses collected ₹ 24.50 lakh between April 2009 and March 2011 from sale of tickets for providing facilities to spectators in the cinema houses. Although details of facilities provided in the cinema hall and the accounts of expenditure thereof certified by the CA were not submitted (till date of audit) by the proprietors of these cinema houses to the Collectors through the AEC/DEO, the concerned AEC/DEO did not initiate action to levy entertainment duty on the amount collected for providing facilities to the spectators. This resulted in non realisation of entertainment duty of ₹ 5.05 lakh.

After we pointed out the cases, AEC, Bhopal and Sagar stated (September and November 2011) that the matter would be brought to the notice of the Commercial Taxes Department, while DEO Shivpuri stated (May 2011) that action would be taken as per rule. Their replies do not explain why action was not taken to recover the entertainment duty in case of non receipt of duly certified accounts of the expenditure within the prescribed period. Further reports have not been received (March 2013).

We reported the matter to the Department and the Government between July and December 2011; their replies have not been received (March 2013).

B. TAXES AND DUTIES ON ELECTRICITY

7.5 Tax administration

The Energy Department is headed by the Secretary at the Government level and the Chief Electrical Inspector (CEI) of the Department is entrusted with the function of collection of taxes and duties on electricity. The CEI is assisted by two Superintending Engineers {(SE Electrical/Safety)/(E/S)}, seven Divisional Electrical Inspectors (DEI, E/S) at the district level and 34 Assistant Electrical Inspectors at the sub-divisional level for conducting inspection of electrical installations. They are responsible for ensuring correctness of levy and collection of electricity duty, cess and inspection fees in respect of captive and non-captive consumers of electricity and electrical installations respectively.

The Department follows the under mentioned Acts and Rules and notifications issued thereunder:

- Indian Electricity (IE) Act, 1910 (amended in 2003);
- Indian Electricity (IE) Rules, 1956 ;
- Madhya Pradesh Electricity Duty (MPED) Act, 1949 and the Rules framed thereunder, and
- Madhya Pradesh *Upkar Adhiniyam*, 1981.

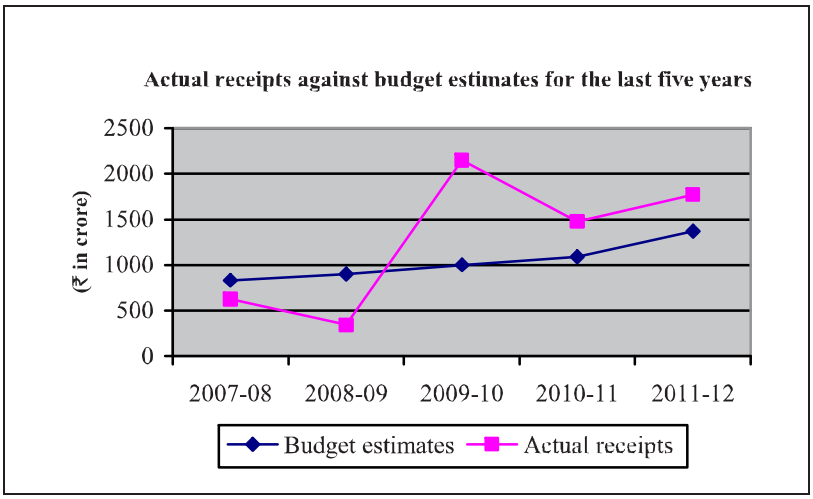
7.6 Trend of receipts

Actual receipts from Taxes and Duties on Electricity during the period 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following table and line graph:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual tax receipts vis-a-vis total tax receipts
2007-08	832.00	626.08	(-) 205.92	(-) 24.75	12,017.64	5.21
2008-09	900.00	343.06	(-) 556.94	(-) 61.88	13,613.50	2.52
2009-10	1,000.00	2,146.49	(+) 1,146.49	(+) 114.65	17,272.77	12.43
2010-11	1,090.00	1,476.32	(+) 386.32	(+) 35.44	21,419.33	6.89
2011-12	1,370.00	1,773.32	(+) 403.32	(+) 29.44	26,973.44	6.57

(Source: Budget Estimates and Finance Accounts of the Government of Madhya Pradesh)



In 2011-12, the collection from Taxes and Duties on Electricity increased by 20.12 *per cent* over the previous year, which was attributed by the Department to the receipt of arrears pending with M.P. *Vidyut Vitaran* Companies.

7.7 Working of internal audit wing

The Department reported (August 2012) that the internal audit wing has not been established.

7.8 Impact of audit

7.8.1 Position of Inspection Reports (IRs)

During the period 2006-07 to 2010-11, through our IRs, we had pointed out non/short levy, non/short realisation, underassessment of electricity duty etc., with revenue implication of ₹ 1,963.31 crore in 7,44,491 cases. Of these, the Department/Government had accepted audit observations in 74,071 cases involving ₹ 1,166.97 crore and had since recovered ₹ 1,145.67 crore (as on 30 November 2012). The details are shown in the following table:

(₹ in crore)

Year of Inspection Report	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2006-07	3	3,506	1.53	2,693	0.10	Nil	Nil	Nil
2007-08	6	1,83,618	17.25	55,288	5.58	Nil	Nil	Nil
2008-09	4	2,27,987	8.36	15,600	7.21	1	1.13	15.67
2009-10	8	90,515	1,683.49	261	1,151.13	96	1,144.39	99.41
2010-11	5	2,38,865	252.68	229	2.95	94	0.15	5.08
	Total	**7,44,491**	**1,963.31**	**74,071**	**1,166.97**	**191**	**1,145.67**	

The recovery position as compared to acceptance of objections in the year 2009-10 was 99.41 *per cent* whereas in the other years, it was extremely low ranging from zero *per cent* to 15.67 *per cent*.

7.8.2 Position of Audit Reports

In the Audit Reports 2006-07 to 2010-11, we had pointed out cases of loss of revenue due to non-imposition of duty and penalty on electrical installations, loss of revenue due to lack of provision for security deposit, short levy/recovery of duty due to application of incorrect rate etc. with revenue implication of ₹ 569.82 crore. The Department accepted four paragraphs involving ₹ 549.35 crore and recovered ₹ 84 lakh against two paragraphs as shown in the following table:

(₹ in crore)

Year of Audit Report	No. of paragraphs	Money value	No. of accepted paragraphs	Money value of accepted paragraphs	No. of paragraphs against which recovery made	Amount recovered up to 31.03.12
2006-07	1	Nil	Nil	Nil	Nil	Nil
2007-08	4	1.94	1	0.41	1	0.008
2008-09	2	1.80	1	0.83	1	0.83
2009-10	1 (Performance Audit)	562.60	1 (Performance Audit)	547.64	Nil	Nil
2010-11	3	3.48	1	0.47	Nil	Nil
Total	**11**	**569.82**	**4**	**549.35**	**2**	**0.84**

The recovery position as compared to accepted cases was either nil or extremely low except during the year 2008-09.

We recommend that the Government should take appropriate steps to improve the recovery position at least against the accepted cases.

7.9 Results of audit

Test check of the records of seven units relating to Taxes and Duties on Electricity during the year 2011-12 revealed underassessment of electricity duty and other irregularities involving ₹ 25.42 crore in 3,94,942 cases which can broadly be classified under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Loss of revenue due to non-inspection of electrical installation	2,83,299	1.54
2.	Other observations	1,11,643	23.88
Total		**3,94,942**	**25.42**

During the course of the year, the Department accepted underassessment and other deficiencies in 60 cases of ₹ 21.30 crore out of the cases pointed out in audit during the year 2011-12.

A few illustrative audit observations involving an amount of ₹ 35 lakh are mentioned in the following paragraphs.

7.10 Short realisation of electricity duty

As defined in the MPED Act, 1949 "Mines" include the premises or machinery situated in or adjacent to a mine and used for crushing, processing, treating or transportation of materials. The Act provides for levy of duty at the rate of 40 *per cent* on the amount of energy consumed in mines, other than captive mines of cement industry.

We observed (March 2012) during test check of the ledgers in the office of the DEI (E/S), Gwalior that in case of seven consumers engaged in mining activities between March 2009 and February 2010, duty was incorrectly levied at rates ranging from 3.5 *per cent* to eight *per cent* applicable for industrial purposes against the rates of 40 *per cent* leviable for mining activities. This resulted in short realisation of duty of ₹ 35 lakh.

After we pointed out the cases, the Government accepted the audit observation and stated (January 2013) that instructions for raising demand of ₹ 35 lakh had been issued.

7.11 Follow-up action on inspections

Under Rule 141 of the IE Rules, 1956, if the owner of an electrical installation commits breach of any provision of the rule, he shall be liable to pay a penalty of up to ₹ 300 for each breach and if the breach continues, he shall be further liable to pay a penalty of up to ₹ 50 per day till the breach persists. Further, as per instructions of February 1987 of the Energy Department, (issued on the basis of advice of the Legal Department), penalty can be imposed by the court only after the case has been instituted in the court.

We observed (between January 2012 and March 2012) during test check of records of inspection reports relating to inspections conducted by five units[4] that while carrying out inspection of medium and high voltage electrical installations during 2009-10 and 2010-11, the inspectors detected breach of various provisions of the rules regarding general safety requirements in all the 48,025 installations inspected out of the 1,50,477 installations due for inspection. The inspection reports were issued to the consumers and the Madhya Pradesh *Vidyut Vitaran* (MPVV) Companies with instructions to rectify the breaches and report compliance. We, however, found that the compliance reports either from the consumers or from the MPVV Companies were not available on record.

A similar para (para no. 8.3 of the Audit Report of 2007-08) was settled by the Public Accounts Committee (PAC) on the basis of oral explanations given by

[4] CEI (E/S), Bhopal, DCEI (E/S), Jabalpur, DEI (E/S), Chhindwara, Gwalior and Rewa

the Department that penalty was not being levied as breaches noticed during inspections were subsequently rectified by the consumers. The Department further explained to the PAC that it allows a period of one month for rectification of the breaches. Citing the PAC decision, the Department requested (January 2013) that the present audit observation be settled as the issue involved was similar.

In the absence of records evidencing compliance, we could not obtain assurance that the Department was monitoring compliance and taking necessary action in cases where rectification had not been completed within the one month period allowed.

CHAPTER - VIII

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present illustrative cases of ₹ 80.34 crore selected from observations noticed during our test check of records relating to non/short levy/realisation of dead rent/royalty, non/short levy of interest, non assessment of rural infrastructure and road development tax etc. in the office of the District Mining Officers where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that though similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, the Department has not taken corrective action.
Tax collection	In 2011-12 the collection from mining receipts decreased by 3.92 *per cent* over the previous year.
Internal audit not conducted	The Department reported (January 2013) that the internal audit wing has not been established.
Very low recovery by the Department of observations pointed out by us in earlier years	During the period from 2006-07 to 2010-11, through our Inspection Reports we had pointed out non/short levy/realisation, underassessment, loss of mining receipts etc., with revenue implication of ₹ 2,944.63 crore in 5,636 cases. Of these, the Department/ Government had accepted audit observations in 4,829 cases involving ₹ 2,077.37 crore and had since recovered ₹ 249.45 crore in 606 cases. The recovery position as compared to acceptance of objections was very low ranging from 7.67 *per cent* to 31.25 *per cent*.
Results of audit conducted by us in 2011-12	In 2011-12 we test checked the records of 32 units relating to mining receipts and found underassessment, non/short realisation of revenue and other irregularities involving ₹ 171.95 crore in 1,316 cases. The Department accepted under assessment and other deficiencies of ₹ 170.80 crore in 1,145 cases, which were pointed out by us during the year 2011-12.
Our conclusion	The Department needs to initiate immediate action to recover the amount on account of non/short realisation of royalty, non-imposition of penalty, non levy of interest etc. pointed out by us, more so in those cases where it has accepted our contention.

CHAPTER - VIII
MINING RECEIPTS

8.1 Tax administration

The Mining Department functions under the overall charge of the Secretary, Mining, Government of Madhya Pradesh. The Director, Geology and Mining is the head of the Department who is assisted by Deputy Directors at Headquarters and District Mining Officers (DMOs) at the district level. The DMOs are assisted by Assistant DMOs and Mining Inspectors. The DMOs, Assistant DMOs and Inspectors are under the administrative control of the Collector at the district level.

Mining Receipts are collected under the provisions of the following Acts and Rules and notifications issued thereunder:

- Mines and Minerals (Development and Regulation) Act, 1957;
- Mineral Concession Rules, 1960;
- Mineral Conservation and Development Rules, 1988;
- Marble Development and Conservation Rules, 2002;
- Madhya Pradesh Minor Mineral Rules, 1996;
- Madhya Pradesh Minerals (Prevention of Illegal Mining Transportation and Storage) Rules, 2006;
- Madhya Pradesh Rural Infrastructure and Road Development Act, 2005;
- The Colliery Control Rules, 2004; and
- Coal Bearing Areas Act, 1957.

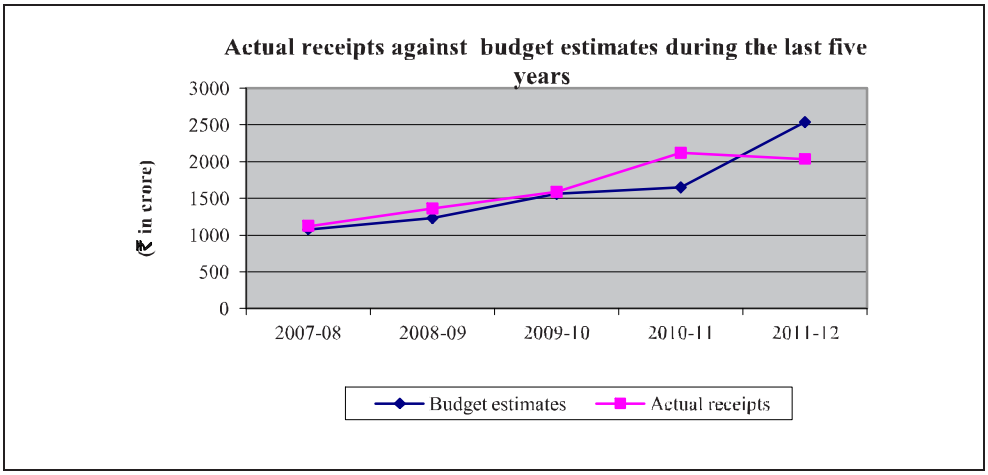
8.2 Trend of receipts

Actual Mining Receipts during the period 2007-08 to 2011-12 along with the total non-tax receipts during the same period are exhibited in the following table and line graph:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual mining receipts vis-a-vis total non-tax receipts
2007-08	1,080.00	1,125.39	(+) 45.39	(+) 4.20	2,738.18	41.10
2008-09	1,235.00	1,361.08	(+) 126.08	(+) 10.21	3,342.86	40.72
2009-10	1,566.00	1,590.47	(+) 24.47	(+) 1.56	6,382.04	24.92
2010-11	1,650.00	2,121.49	(+) 471.49	(+) 28.58	5,719.77	37.09
2011-12	2,540.00	2,038.31	(-) 501.69	(-) 19.75	7,482.73	27.24

(Source: Budget Estimates and Finance Accounts of Government of Madhya Pradesh)



In 2011-12, the collection from mining receipts decreased by 3.92 *per cent* over the previous year. The variation between BEs and actuals ranged between (-) 19.75 *per cent* and (+) 28.58 *per cent*. The reasons for variation between budget estimates and actuals in 2011-12 were attributed by the Department to the recovery of outstanding road development tax and increase in royalty amount owing to the revision of royalty rates of minor minerals (August 2012).

8.3 Impact of audit

8.3.1 Position of Inspection Reports (IRs)

During the period 2006-07 to 2010-11, through our IRs we had pointed out cases of non/short levy/realisation, underassessment, loss of mining receipts etc. with revenue implication of ₹ 2,944.63 crore in 5,636 cases. Of these, the Department/Government had accepted audit observations in 4,829 cases involving ₹ 2,077.37 crore and had since recovered ₹ 249.45 crore in 606 cases (up to 30 November 2012). The details are shown in the following table:

(₹ in crore)

Year of Inspection Reports	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2006-07	31	1,258	38.84	1,258	38.84	68	6.93	17.84
2007-08	34	1,474	513.88	1,457	97.25	81	8.94	9.19
2008-09	34	433	333.73	368	240.07	188	39.53	16.47
2009-10	34	1,384	1,774.20	674	1,431.55	109	109.78	7.67
2010-11	37	1,087	283.98	1,072	269.66	160	84.27	31.25
Total		**5,636**	**2,944.63**	**4,829**	**2,077.37**	**606**	**249.45**	

The recovery position as compared to acceptance of objections was very low ranging from 7.67 *per cent* to 31.25 *per cent* during the period 2006-07 to 2010-11. We have brought this issue to the notice of the head of the Department as well as the Finance Secretary to the Government (August 2012).

8.3.2 Position of Audit Reports

In the Audit Reports 2006-07 to 2010-11, we had pointed out cases of underassessment, non/short realisation of royalty/dead rent/contract money, non-levy of interest on belated payment, non-imposition of penalty etc. with revenue implication of ₹ 1,067.24 crore in 39 paragraphs. While the Department accepted observations of ₹ 581 crore, it recovered a sum of only ₹ 70.02 crore up to March 2012, as shown in the following table:

(₹ in crore)

Year of Audit Report	Number of paragraphs	Money value	No. of paragraphs accepted	Money value of accepted paragraphs	No. of paragraphs against which recovery made	Amount recovered up to 31.03.12
2006-07	8	5.20	7	4.16	5	3.33
2007-08	1	395.76	1	340.79	1	63.25
2008-09	8	102.93	6	9.27	5	2.28
2009-10	11	447.89	8	143.11	4	0.35
2010-11	11	115.46	8	83.67	5	0.81
Total	**39**	**1,067.24**	**30**	**581.00**	**20**	**70.02**

We recommend that the Government should take appropriate steps to recover the amounts involved, at least in the accepted cases.

8.4 Working of Internal Audit Wing

The Department reported (January 2013) that the internal audit wing has not been established and therefore no internal audits were undertaken during the year 2011-12.

8.5 Results of audit

Test check of the records of 32 units relating to Mining Receipts during 2011-12 revealed underassessment, non/short realisation of revenue and other irregularities involving ₹ 171.95 crore in 1,316 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short levy of interest on belated payments	198	0.60
2.	Non/short levy of dead rent/royalty	330	23.94
3.	Non-assessment of rural infrastructure and road development tax	144	95.77
4.	Short realisation of contract money in trade quarries	361	7.37
5.	Other observations	283	44.27
Total		**1,316**	**171.95**

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 170.80 crore in 1,145 cases, which were pointed out in audit during the year 2011-12.

A few illustrative audit observations involving an amount of ₹ 80.34 crore are mentioned in the following paragraphs:

8.6 Short realisation of revenue due to non revision of contract money

As per Condition No. 6 of the contract agreement for trade quarries sanctioned under the Madhya Pradesh Minor Mineral Rules, if during the currency of the contract the rates of royalty are revised, then the contract money shall also be revised proportionately. The Government had revised the royalty rates of minor minerals in March 2010.

We observed (between May 2011 and February 2012) during scrutiny of returns and contract files of trade quarries in 19 District Mining Offices[1], that the Department did not revise the contract money from ₹ 5.65 crore to ₹ 8.87 crore in cases of 141 trade quarry contractors for the period from 5 March 2010 to 31 March 2011. This resulted in short realisation of contract money of ₹ 3.22 crore[2].

After we pointed this out (between May 2011 and March 2012), DMO, Datia stated (June 2011) that pit passes had been issued to the contractors according to revised royalty rates in terms of the notification. We do not agree as the contract money should also have been revised according to conditions of the contract agreement irrespective of the fact whether the contractors extract the whole quantity of mineral or not.

We reported the matter to the Department and the Government (between May and June 2012); their replies have not been received (March 2013).

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1 Badwani, Balaghat, Betul, Chhatarpur, Chhindwara, Damoh, Datia, Dhar, Dindori, Harda, Jabalpur, Jhabua, Khandwa, Mandla, Ratlam, Rewa, Satna, Shajapur and Sidhi.

2 Out of ₹ 3.22 crore, ₹ 6 lakh pertains to 18 trade quarry contractors in three DMOs (Dindori, Khandwa, Mandla) for 27 days in the year 2009-10 and ₹ 3.16 crore pertains to 19 DMOs for the year 2010-11.

8.7 Short realisation of royalty due to incorrect application of rate of royalty

As per section 9 (i) of the Mines and Minerals (Development and Regulation) Act, every lessee of a mining lease has to pay royalty in respect of minerals removed or consumed by him from the leased area, at the rates specified in the Second Schedule of the Act. Further, as per Rule 64 (D) of the Mineral Concession Rules, the State Government shall add 20 *per cent* to the benchmark value* and this value shall be reckoned to be the sale price for the purpose of computation of royalty.

We observed (January 2009) while scrutinising individual case files, payment challans and returns of mining leases in the District Mining Office, Neemuch that two lessees of laterite mineral had paid royalty (between April 2006 and March 2008) of ₹ 3.62 lakh against the payable amount (as per the average value published by Indian Bureau of Mines) of ₹ 16.07 lakh for dispatched quantity of 1.24 lakh tons of laterite due to application of incorrect rate of royalty. Had the Department scrutinised the periodical returns submitted by the lessees, this irregularity could have been detected. Failure of the Department to check the returns and demand the correct rate of royalty resulted in short realisation of revenue of ₹ 12.45 lakh.

We reported the matter to the Department and the Government (between March and May 2012); their replies have not been received (March 2013).

* The state wise average value for different individual minerals as published by Indian Bureau of Mines in the 'Monthly Statistics of Mineral Production' shall be the benchmark for computation of royalty by the concerned State Government in respect of any mineral produced any time during a month in any mine in the State. For the purpose of computation of royalty the State Government shall add 20 *per cent* to this benchmark value. This value shall be reckoned to be the sale price for the purpose of computation of royalty.

8.8 Non realisation of rural infrastructure and road development tax

According to the provisions of the Madhya Pradesh Rural Infrastructure and Road Development Act and notification of September 2005, rural infrastructure and road development tax at the rate of five *per cent* per annum of the market value of major minerals produced after deducting amount of royalty actually paid by the lessee and ₹ 4,000 per hectare per year in case of idle mines is to be levied on lessees holding mining leases. The Act further provides that the competent authority shall assess the sale value of minerals on the basis of returns/accounts submitted by the lessees and shall assess and demand the tax by the end of May each year. In case of non payment of tax, the competent authority shall, under section 4(2), impose penalty not exceeding three times of the tax payable, but not before giving a reasonable opportunity to the assessee of being heard. According to sub-section 5 of section 4, the competent authority shall recover the amount of tax and penalty, if not paid, as arrears of land revenue.

We observed (between May 2011 and February 2012) during scrutiny of the production records of major minerals in respect of mining leases in 12 District Mining Offices[3] that 48 lessees had paid road development tax of ₹ 2.51 crore between April 2010 and March 2011 against the payable amount of ₹ 73.04 crore. The DMOs did not issue demand notices to recover the tax. This resulted in non-realisation of tax of ₹ 70.53 crore, besides penalty leviable under the Act.

After we pointed this out between May 2011 and February 2012, DMO Chhindwara stated (November 2011) that a demand notice was issued to the lessee (Western Coal Fields Ltd.) who appealed to the Commissioner, Jabalpur against the demand of road development tax. The fact, however, remains that the DMO had issued demand notice only for the period April to June 2010 and no action was taken for the period from July 2010 to March 2011. In respect of another lessee (M/s Krishna Pink Alloy), the DMO stated (November 2011) that action for recovery of tax would be taken after obtaining documents relating to sale value of mineral produced by the lessee. The other DMOs stated (between May 2011 and February 2012) that demand notices would be issued/necessary action would be taken.

We reported the matter to the Department and the Government (between May and June 2012); their replies have not been received (March 2013).

[3] Chhatarpur, Chhindwara, Jabalpur, Jhabua, Katni, Mandla, Rewa, Satna, Shahdol, Sidhi, Singrauli and Umaria.

8.9 Non-working of mining leases

According to Rule 22 (A) of Mineral Concession Rules, mining operations shall be undertaken in accordance with the duly approved mining plan. Further, as per rule 28(1) of the Rules *ibid*, where mining operations are not commenced for a continuous period of one year from the date of execution of the lease or is discontinued for a continuous period of one year after commencement of such operations, the State Government shall, by an order, declare the mining lease as lapsed and communicate the declaration to the lessee.

We observed (between November and December 2010) during scrutiny of mining plans and returns submitted by lessees in District Mining Officer, Betul and Neemuch that two leases of zinc/ limestone had been sanctioned in March 2005 and November 1995 respectively for a period of 20 years over a total area of 18.564 hectare. The lessee had not commenced mining till November 2010 in Betul and the lessee in Neemuch had stopped mining from July 2006 onwards. The lessees paid only dead rent during this period. Since the mining activities were either not commenced or were stopped for a long period, the leases were required to be declared as lapsed. However, this was not done by the Department. Had these leases been granted to other applicants, they would have fetched revenue according to the potential of the mines. Besides, discontinuance of mining prevents socio-economic growth of the region, mineral development and employment generation.

After we pointed this out in December 2010, DMO, Betul stated (December 2010) that the lessee had deposited the payable amount of dead rent of ₹ 12,000. He further stated that there was no loss of revenue because the lessee neither extracted nor sold any quantity of mineral from the leased area. We do not agree as the lease was sanctioned to the lessee for working the mines as per the mining plan in anticipation of revenue in the shape of royalty and not for keeping the mine idle and paying dead rent. The DMO, Neemuch stated (November 2010) that a proposal for cancellation of the lease would be forwarded to the Government. Further report has not been received (March 2013).

We reported the matter to the Department and the Government (between March and May 2012); their replies have not been received (March 2013).

8.10 Short realisation of contract money

According to Rule 37(i) of Madhya Pradesh Minor Mineral Rules and conditions No. 5(i) and 9 of the contract agreement for trade quarry, every contractor has to pay contract money to the State Government on the scheduled date. If the contract money remains unpaid for more than three months, the contract may be cancelled and the quarry may be re-auctioned. Consequently, upon re-auction of the quarry, if the Government sustains any loss, the same will be recovered from the original contractor as arrears of land revenue.

We observed (between May 2011 and January 2012) during scrutiny of case files of contract money in respect of trade quarries in 22 DMOs[4] that contract money of ₹ 5.06 crore from 141 contractors had fallen due for payment between April 2009 and March 2011 against which an amount of ₹ 2.02 crore only was paid by the contractors. This resulted in short realisation of contract money of ₹ 3.04 crore. The DMOs had not initiated any action against the contractors under the terms of the contract to cancel the contract and re-auction the quarries.

After we pointed this out, DMO, Sehore stated (June 2011) that out of the objected amount, ₹ 9 lakh had been deposited on an earlier occasion. We do not agree as the deposited amount had already been excluded by audit while calculating the contract money payable. DMO, Rajgarh stated (May 2011) in two cases that the trade quarries could not be operated for want of the No Objection Certificate (NOC) from MP Pollution Control Board (PCB) and in the remaining case audit would be intimated about the action to be taken. The fact remains that the DMO should have ensured that the NOC was obtained by the contractor from the PCB. The other DMOs stated (between May 2011 and January 2012) that demand notices would be issued/necessary action would be taken. Further report has not been received (March 2013).

We reported the matter to the Department and the Government (between May and June 2012); their replies have not been received (March 2013).

[4] Badwani, Chhatarpur, Chhindwara, Damoh, Dhar, Dindori, Harda, Jabalpur, Khandwa, Khargone, Mandla, Raisen, Rajgarh, Ratlam, Rewa, Sagar, Satna, Sehore, Seoni, Shajapur, Sidhi and Umaria.

8.11 Short realisation of dead rent of quarry lease

According to Rule 30 (1) (a) of Madhya Pradesh Minor Mineral Rules, every lessee of quarry lease shall pay yearly dead rent for every year, except for the first year, at the rates specified in Schedule IV, in advance for the whole year, on or before the twentieth day of the first month of the year.

We observed (between May 2011 and February 2012) during scrutiny of individual files of lessees in 27 DMOs[5] that 214 quarry lessees had paid dead rent of ₹ 30.47 lakh against the payable amount of ₹ 1.84 crore for the period from January 2010 to December 2011. The DMOs did not issue demand notices and initiate action to recover the unpaid balance of Government money. This resulted in short realisation of dead rent of ₹ 1.54 crore.

We reported the matter to the Department and the Government (between March and June 2012); their replies have not been received (March 2013).

8.12 Non realisation of dead rent of mining lease

According to section 9(A)(i) of the Mines and Minerals (Development and Regulation) Act, and rules made thereunder, every lessee of a mining lease has to pay dead rent every year to the State Government at the rates prescribed in Schedule III of the Act in respect of all areas included in the lease provided that where the lessee becomes liable to pay royalty for any mineral removed or consumed, he shall be liable to pay either such royalty or the dead rent in respect of that area, whichever is greater. The rules also provide for levy of interest on belated payments at the rate prescribed therein.

We observed (between October 2010 and December 2011) during scrutiny of individual files of lessees of DMOs Shahdol and Satna that two lessees holding 18 mining leases of major minerals had not paid the amount of dead rent of ₹ 46.43 lakh between April 2009 and March 2011. The DMOs did not issue demand notices and initiate action to recover the dead rent. This resulted in non-realisation of dead rent of ₹ 46.43 lakh. Besides, interest was also leviable.

We reported the matter to the Department and the Government (between March and June 2012); their replies have not been received (March 2013).

[5] Anuppur, Badwani, Balaghat, Chhatarpur, Chhindwara, Damoh, Datia, Dhar, Harda, Jabalpur, Jhabua, Katni, Khandwa, Khargone, Mandla, Narsinghpur, Raisen, Rajgarh, Ratlam, Rewa, Sagar, Satna, Sehore, Shahdol, Shajapur, Ujjain and Umaria.

8.13 Non levy/realisation of interest on defaulted payments

As per Rule 30(d) of Madhya Pradesh Minor Mineral Rules, every lessee of quarry lease is required to pay dead rent to the State Government on or before the 20th day of first month of the year, failing which the lessee is liable to pay interest at the rate of 24 *per cent* per annum till the default continues besides any penal action to be taken under the rules. As per Rule 30(i)(b), in case of breach of any of the conditions specified in the Rules, the Collector/Additional Collector shall give a show cause notice for penal action in writing to the lessee, directing him to remedy the breach within sixty days from the date of the notice. If the breach is not remedied within the stipulated period the sanctioning authority, without prejudice to any other action, may determine the lease and forfeit the whole or part of the security deposit or in the alternative may impose penalty prescribed under the rules.

8.13.1 We observed (between December 2008 and November 2011) during scrutiny of the case files related to dead rent and royalty in respect of quarry leases in eight DMOs[6] that 67 quarry lessees had delayed the payment of dead rent by eight to 2,257 days. Out of these, in 11 cases the delay in payment of dead rent was beyond one year. The DMOs had not initiated any action either for levy of interest on these belated payments or for cancellation of lease. This resulted in non realisation of interest of ₹ 8.33 lakh.

We reported the matter to the Department and the Government (between March and June 2012); their replies have not been received (March 2013).

Under the Madhya Pradesh Minor Mineral Rules and condition No.5(i) of the contract agreement, contractors of trade quarries are required to pay contract money on or before the date indicated in their contract agreement, failing which the contractor is liable to pay, in addition to the contract money, interest at the rate of 24 *per cent* per annum till the default continues.

8.13.2 We observed (between February 2009 and December 2011) during scrutiny of the case files of contract money in respect of trade quarries of seven DMOs[7] that 44 contractors had delayed the payment of contract money (between April 2007 and March 2011) for periods ranging from six to 930 days. The DMOs did not initiate any action for levy of interest on the delayed payments. This resulted in non levy of interest of ₹ 12.68 lakh.

6 Badwani, Balaghat, Hoshangabad, Katni, Narsinghpur, Sagar, Satna and Shivpuri.

7 Anuppur, Balaghat, Datia, Dhar, Narsingpur, Shahdol and Umaria.

We reported the matter to the Department and the Government (between March and June 2012); their replies have not been received (March 2013).

8.14 Short realisation of royalty on quarry lease

As per Rule 30(i)(b) of Madhya Pradesh Minor Mineral Rules, every lessee holding a quarry lease shall pay to the State Government royalty in respect of minerals removed by him from the leased area at the rates specified in Schedule-III to the Rules. In case of breach of any of the conditions specified in the Rules, the Collector /Additional Collector shall give a show cause notice for penal action in writing to the lessee and directing him to remedy the breach within sixty days from the date of the notice. If the breach is not remedied within the stipulated period the sanctioning authority, without prejudice to any other action, may determine the lease and forfeit the whole or part of the security deposit or in the alternative may impose penalty prescribed under the rules.

We observed (between May 2011 and January 2012) during scrutiny of the case files in respect of quarry leases in nine DMOs[8] that 22 lessees had paid royalty of ₹ 75.94 lakh against the payable amount of ₹ 1.13 crore during the period April 2009 to March 2011. The DMOs did not take action either to levy penalty or to forfeit the security deposit. This resulted in short realisation of royalty of ₹ 36.96 lakh.

We reported the matter to the Department and the Government (between May and June 2012); their replies have not been received (March 2013).

8.15 Short realisation of royalty on mining lease

According to Section 9(i) of the Mines and Minerals (Development and Regulation) Act, every lessee of a mining lease has to pay royalty in respect of minerals removed or consumed by him from the leased area, at the rates specified in the Second Schedule of the Act.

We observed (between November 2011 and February 2012) during scrutiny of the case files and payment challans in respect of mining leases in DMOs Balaghat and Chhindwara that two lessees had paid royalty between April 2010 and March 2011 of ₹ 33.06 crore against the payable amount of ₹ 33.44 crore for the dispatched quantity of copper and manganese. Despite the short payment of royalty by the lessees, the DMOs did not take any action to assess and recover the amount of ₹ 37.74 lakh towards royalty. This resulted in short realisation of royalty of ₹ 37.74 lakh.

We reported the matter to the Department and the Government (between May and June 2012); their replies have not been received (March 2013).

[8] Harda, Jabalpur, Katni, Khandwa, Rajgarh, Satna, Shahdol, Singrauli and Tikamgarh.

8.16 Irregularities in issuing temporary permits

According to Rule 68(1) of the Madhya Pradesh Minor Mineral Rules, the Collector shall grant permission for extraction, removal and transportation of any minor mineral from any specific quarry or land which may be required for the works of any Department and undertaking of the Central Government or the State Government. Sub-rule (3) further provides that such permission shall only be granted on payment of advance royalty calculated at the rates specified in Schedule III.

We observed (between December 2010 and June 2011) during scrutiny of case files and temporary permits issued to contractors under DMOs Chhindwara and Sagar that 12 temporary permits were issued to nine contractors for State Government construction work between April 2009 and September 2010. The DMOs did not realise the entire sum of royalty payable in advance and instead issued permits against part payment by the contractors. As a result, the Department could realise ₹ 27.06 lakh only against the payable royalty of ₹ 60.29 lakh leading to short realisation of revenue of ₹ 33.23 lakh. Had the DMOs realised the royalty in advance according to the requirement of sub-rule (3), short realisation of revenue could have been avoided.

We reported the matter to the Government and the Department in March and June 2012; their replies have not been received (March 2013).

8.17 Non imposition of penalty due to non-submission of returns

According to rule 30 (20) (a)(b)(c) of the Madhya Pradesh Minor Minerals Rules, every lessee of quarry lease shall furnish monthly, six monthly and annual returns to the DMO in prescribed forms on the specified dates, failing which the lessee is liable for payment of penalty not exceeding double the amount of annual dead rent required to be imposed by the sanctioning authority.

We noticed that the Department has not prescribed control registers to monitor the timely receipt of returns and no reports on the status of receipt of returns from the contractors were also prescribed for submission by the DMOs to higher authorities. We observed (between December 2010 and January 2011) during scrutiny of 60 individual lease files of lessees under DMOs, Seoni and Shivpuri that 10 lessees had not submitted 163 monthly, 27 six monthly and 15 annual returns for the period from April 2008 to March 2010. In the absence of prescribed periodical returns, accuracy of the royalty/dead rent/ penalty paid by the lessees could not be verified. Therefore, the lessees were liable to pay penalty for non-submission of periodical returns. However, the DMOs did not initiate any action to impose and realise the penalty from the lessees which resulted in non realisation of revenue of ₹ 12.75 lakh in

the form of penalty calculated at double the amount of dead rent. In the absence of a mechanism for watching submission of returns, the non-filing of returns by the lessees escaped the notice of the Department.

We reported the matter to the Department and the Government (between March and May 2012); their replies have not been received (March 2013).

(D.K.SEKAR)

Bhopal **Accountant General**

The **(Economic & Revenue Sector Audit)**

Madhya Pradesh

Countersigned

(VINOD RAI)

New Delhi **Comptroller and Auditor General of India**

The

ANNEXURES

Annexure-I in reference to Para No. 2.10.11

2.10.11 Non-pursuance of Revenue Recovery Cases sent to other states

Sl.No	Details of dealer	Period of Dues	Amount due (₹ in lakh)	Circle/ Division	State where RRC was sent	Date of RRC sent	Remarks/further action taken by the Department
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	M/s Bairan International	1998-2003	1,521.11	Circle –X/ Dn II, Indore	New Delhi, Mumbai	03.03.2004 14.08.2008	We found that Board of Directors of these companies was in possession of properties in Mumbai but these cases were referred to New Delhi. Though the RRC were also sent to Mumbai (August 2008), no further follow up action had been taken (August 2012). The cases were referred to the CTO of Circle-II Gwalior who was the nodal officer for the RRCs pertaining to New Delhi (November 2011) instead of the CTO-Sendhwa for further pursuance. Since the directors of companies were having properties in Mumbai referring the matter to Delhi resulting in recovery not being effected was unwarranted.
2	M/s Bairan Electronics	1998-2001	507.90	Circle –X/ Dn II, Indore	New Delhi, Mumbai	03.03.2004 14.08.2008	
3.	M/s Kripa Chemicals Pvt Ltd.	1993-1999	563.18	Circle-IX/ Dn III, Indore	Pune (Maha.)	23.05.2009	The cases were not pursued after the issue of RRC outside the State.
4	M/s Petro Gold Pvt Ltd.	1997-2000	22.49	Circle-IX/ Dn III, Indore	Mumbai (Maha.)	10.12.2003	
5.	M/s Om Kothari Seal and Plycell	1992-2003.	30.90	Circle-IX/ Dn III, Indore	Kota (Raj.)	26.03.2009	
6.	M/s Woodland Enterprises	1991-1992, 1997-2000	18.91	Circle-IX/ Dn III, Indore	Mumbai (Maha.)	26.03.2009	
7.	M/s Kunwar Ajay Foods Pvt Ltd.	2002-2003	7.83	Circle-IX/ Dn III, Indore	Surat (Guj.)	22.12.2007	
8.	M/s Laxmi Sales Corporation.	1996-2002	5.30	Circle-IX/ Dn III, Indore	Kolhapur (Maha.)	26.03.2009	
9.	M/s Friendly Chemicals	2002-2003	6.57	Circle-IX/ Dn III, Indore	Surat (Guj.)	27.12.2007	
10.	M/s Prahlad Rai Pharma, Jaora	02.11.1986-22.10.1987	1.84	Circle-IX/ Dn III, Indore	Sirwar (Raj)	31.08.1996	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
11.	M/s Laxman Constructions	1996-1998	1.89	Circle-IX/ Dn III, Indore	Mumbai (Maha.)	08.06.2006	
12.	M/s Ruphit Industries Ltd.	1998-2000	37.65	Circle-IX/ Dn III, Indore	Mumbai (Maha.)	10.12.2003	
13.	M/s Rajendra Steel Ltd.	1995-1996	0.74	Circle-IX/ Dn III, Indore	Kanpur (U.P.)	31.01.2006	
14.	M/s Billiyard India	1993-1994	2.30	Circle II/ Dn I, Bhopal	New Delhi	28.04.1999	
15.	M/s Quick Colour Lab	1988-1993	17.27	Circle II/ Dn I, Bhopal	New Delhi	19.07.1996	
16.	M/s Bansal Tea Center	1979-1983	1.59	Circle II/ Dn I, Bhopal	Kolkata	10.02.1998	
17.	M/s Vijay Kumar Roopchandani	1993-1996	1.56	Circle II/ Dn I, Bhopal	Nagpur	25.09.2000	
18.	M/s R.L. Industry	1997-1998	1.34	Circle II/ Dn I, Bhopal	Jaipur	Not available	
19.	M/s Saraykella Glass Work	1990-1994	2.14	Circle II/ Dn I, Bhopal	Singbum (Bihar)	14.06.2000	
20.	M/s Guru Sales Corporation	1978-1983	3.79	Circle II/ Dn I, Bhopal	Ahmedabad	23.01.1998	
21.	M/s Raj Enterprises	1984-1985	1.01	Circle II/ Dn I, Bhopal	Agra	21.11.1996	
22.	M/s Sendorson Industries	16.03.1995 to 31.03.1995	15.06	Circle V/ Dn I, Bhopal	Kolkata	15.03.2001	The DCCT was requested for further pursuance of the cases (December 2006). After that there was no pursuance by the Department.
23.	M/s A.R.P.P. Bhopal	1994-1998	1.67	Circle V/ Dn I, Bhopal	New Delhi	13.07.2004	
24.	M/s Shalimar Tar Products	1993-1999	2.3	Circle V/ Dn I, Bhopal	New Delhi	15.09.2005	
25.	M/s Ply Samrat	1998-1999	1.88	Circle V/ Dn I, Bhopal	Kolkata	03.03.2006	
26.	M/s A.R.M. Bhopal	2001-2002	0.92	Circle V/ Dn I, Bhopal	Bangalore	15.01.2010	Reminders were issued in March 2011 and no further action was taken by the Department.
27.	M/s D.L. Power Line	2002-2009	1.0	Circle V/ Dn I, Bhopal	Bangalore	15.01.2010	
28.	M/s Amit Dahiya	2001-2002	0.20	Circle V/ Dn I, Bhopal	Raipur	23.03.2007	
29.	M/s Hotel Green and Restaurant	1999-2000	0.25	Circle V/ Dn I, Bhopal	Raipur	03.03.2006	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
30.	M/s Vestavision Electricals	1994-1998	8.89	Circle-IX/ Dn-III, Indore	Ghaziabad	09.06.2006	RRC issued to the dealer indicated that the dealer was having properties in New Delhi which did not come under the jurisdiction of Collector Ghaziabad. Referring the matter to Noida (Ghaziabad) was unwarranted, which delayed the recovery.
31.	M/s Vestavision Electricals	1998-1999	55.64	Circle-IX/ Dn-III, Indore	New Delhi	09.06.2006	No further pursuance was done by the Department after the issue of RRCs (August 2012).
Total			**2,844.12**				

Annexure 'II' in reference to Para No. 3.5.14.4

Sl. No.	Period	No. of cases	Export quantity		Transport quantity		Duty (₹)	Delay period
			Foreign liquor (PL)	Beer (BL)	Foreign liquor (PL)	Beer (BL)		
1.	6, 7/2011	18	---	---	59,103	---	84,50,850	10 to 39 Days
2.	7/2011	2	---	---	6,879.60	---	7,97,245	9 to 11 Days
3.	6, 7/2011	2	---	---	1,964.25	---	4,28,306	3 to 122 Days
4.	6, 7/2011	5	18,731.25	---	---	---	29,81,260	16 to 97 Days
5.	3/10, 5 /11	5	---	14,445.72	---	---	2,97,922	2 to 15 Months
6.	3/10 to 10/10	15	---	---	---	14190	4,16,400	8 to 15 Months
7.	3/2011	1	2,025	---	---	---	4,72,500	2 Months
8.	8/11 to 1/12	3	11,826	---	---	---	12,22,425	13 to 204 Days
9.	3/12	1	2,025	---	---	---		
10.	4/10 to 9/11	59	2,94,879.5	---	---	---	3,47,53,703	4 to 75 Days
11.	7/11	2	9,958.95	---	---	---	8,29,879	42 to 43 Days
12.	5/11 to 9/11	62	---	---	1,88,142.5	---	2,20,23,287	4 to 97 Days
13.	8/2011	1	---	---	100.65	---	34,221	17 Days
14.	9/11 to 3/12	41	1,72,732	---	---	---	4,18,66,708	5 to 210 Days
15.	9/11 to 3/12	38	---	---	1,31,314.5	---		
16.	2/11 to 10/11	9	---	---	---	49,140	8,08,773	3 to 243 Days
17.	9/10 to 11/11	56	33,075	3,48,504	---	---	91,17,150	1 to 446 Days
18.	9/10 to 11/11	192	---	---	3,98,191.25	4,58,640	3,93,55,293	4 to 240 Days
19.	9, 11/10	2	11,250 Country liquor	---	---	---	18,00,000	369 to 457 Days
20.	3/11 to 10/11	2	---	---	7,546.5	---	11,16,700	41 to 223 Days
21.	2/11 to 3/12	6	---	---	8,472	---	11,82,161	2 to 4 Days
	3/10 to 3/12	**520+2**	**5,45,252.7 11250**	**3,62,949.72**	**8,01,714.25**	**5,21,970**	**16,61,54,783 + 18,00,000**	**2 to 450 Days**

Foreign liquor Export + Transport = **5,45,252.7 + 8,01,714.25 = 13,46,966.95** PL

Beer Export + Transport = **3,62,949.72 + 5,21,970 = 8,84,919.72** BL

Annexure 'III' in reference to Para No. 3.5.17

Sl. No.	Period	No. of cases	Wastage (in PL)	Calculation of penalty	Penalty amount (in ₹)
1.	04/2010 to 01/2011	19	31.3	31.3×681×3	63,946
2.	04/2011 to 09/2011	08	13.6	13.6×83.33	1,133
3.	04/2009 to 03/2010	250	1,567.1	1,567.1×150×3	7,05,195
4.	04/2010 to 03/2011	212	455.94	455.94×160×3	2,18,851
5.	04/2011 to 09/2011	29	308.5	308.5×80×3	74,040
Total		**518**	**2,376.44**		**10,63,165**

Annexure 'IV' in reference to Para No. 3.5.22

Sl. No.	Name of label	Issue quantity 4/2010 to 11/2010 (in boxes)	Recovered duty (in ₹)	Recoverable duty (in ₹)	Short recovered duty (in ₹)
(1)	(2)	(3)	(4)	(5)	(6)
1.	100 Pipers	787	12,98,550	13,23,640	25,090
2.	Something Special	158	2,60,700	3,63,400	1,02,700
3.	Haig Gold Label Blend	130	1,75,500	2,01,032	25,532
4.	Black & White Choice	144	2,37,600	2,45,160	7,560
5.	Teacher – 50	435	8,09,348	10,00,500	1,99,152
6.	Black Dog 12 years old	377	7,14,117	8,67,100	1,52,983
7.	White & Mackey Glasgow	20	33,000	46,000	13,000
GIN/WHISKY/BRANDY					
8.	Honey Bee	1,432	9,30,800	14,09,947	4,79,147
9.	Blue Riband	1,862	12,10,300	16,75,800	4,65,500
10.	Vodka Red Russian	124	69,750	1,42,600	72,850
11.	Vodka Green Apple (MM)	172	1,76,300	1,97,800	21,500
12.	Vodka Orange (MM)	243	2,49,075	4,49,550	2,00,475
13.	Vodka Smirnoff	757	8,70,550	10,21,950	1,51,400
14.	Vodka Orange Twist	337	3,87,550	4,54,950	67,400
15.	Vodka Shark Tooth	45	46,125	51,750	5,625
16.	Smirnoff Green Apple twist	294	3,38,100	3,96,900	58,800
17.	Vodka Premium Romanov	540	4,86,000	5,31,684	45,684
18.	Vodka White Mischief	1397	9,28,837	14,31,925	5,03,088
19.	Vodka Magic Moment Grain	854	8,75,350	9,82,100	1,06,750
20.	Vodka Seagram Fuel	92	94,300	1,05,800	11,500
21.	Vodka Gorbatschow	40	46,000	49,842	3,842
22.	Bagpiper	1,913	13,12,796	17,21,700	4,08,904
23.	Peter Scot	556	6,39,400	7,50,600	1,11,200
24.	Red Knight	765	7,84,125	8,79,750	95,625
25.	Aristocrat Black	556	4,62,247	6,39,400	1,77,153
26.	Director's Special	357	2,36,691	3,21,300	84,609
27.	Director's Special Black DX	266	2,39,400	2,72,650	33,250
28.	Royal Challenge	3,546	40,77,900	41,87,100	7,09,200
29.	Mc Dowell Diplomat	742	4,82,300	5,80,244	97,944
30.	Mc Dowell No. 1 Reserve	16,685	1,50,16,500	1,91,87,750	41,71,250
31.	Signature Rare	2,662	30,61,300	35,93,700	5,32,400

(1)	(2)	(3)	(4)	(5)	(6)
32.	Antiquity Blue Ultra premium	1,171	13,46,650	19,32,150	5,85,500
33.	Mc Dowell Diet mate reserve	2,235	19,93,397	25,70,250	5,76,853
34.	Green label	1,442	10,22,349	13,18,565	2,96,216
35.	Blenders Pride	4,427	50,91,050	59,76,450	8,85,400
36.	Royal Stag	6,646	63,44,471	76,42,900	12,98,429
37.	Officer's Choice Prestige	1,801	11,82,645	16,20,900	4,38,255
38.	8 PM	1,941	15,10,855	17,46,900	2,36,045
39.	Dyc Rare Crafted	89	98,733	1,02,350	3,617
40.	Antiquity rare premium	357	4,10,550	4,81,950	71,400
41.	Royal Arm Real	1,154	7,50,100	10,38,600	2,88,500
42.	Senate Royal	457	4,11,300	5,25,550	1,14,250
43.	Master Stroke DX	216	2,21,400	2,48,400	27,000
RUM					
44.	Contessa 5 years old	30,027	1,17,10,530	1,36,40,666	19,30,136
45.	8 PM Bermuda XXX original Caribbean	3,782	14,74,980	20,42,280	5,67,300
46.	Bacardi Carta blanca	553	3,81,570	4,47,930	66,360
47.	Premium old fox XXX Rum	23,189	90,43,710	99,55,038	9,11,328
48.	Madeira rum	1,786	7,48,781	16,07,400	8,58,619
49.	Aristocrat XXX Rum	5,450	19,47,285	29,43,000	9,95,715
50.	Hercules XXX Rum	936	4,65,828	5,75,640	1,09,812
51.	Golconda Brandy	465	3,02,250	5,34,750	2,32,500
BEER					
52.	Sandpiper Premium 650 ML	7,032	8,00,874	10,96,992	2,96,118
53.	Kingfisher Strong	2,096	2,58,920	3,26,976	68,056
54.	Kingfisher 650 ML	18,872	21,47,256	29,44,032	7,96,776
Total		**1,54,412**	**8,62,07,995**	**10,70,03,293**	**2,07,95,298**