सत्यमेव जयते

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

for the year ended 31 March 2012

Government of Rajasthan

Report No. 2 of the year 2013

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

for the year ended 31 March 2012

Government of Rajasthan

Report No. 2 of the year 2013

TABLE OF CONTENTS

	Reference to	
	Paragraph	Page
Preface		vii
Overview		ix-xii
CHAPTER-I : GENERAL		
Trend of revenue receipts	1.1	1
Response of the Government towards audit observations	1.2	5
Outstanding IRs and audit observations	1.2.1	5
Departmental audit committee meetings	1.2.2	6
Response of the Departments	1.2.3	7
Follow-up on Audit Reports – summarised position	1.2.4	7
Compliance to the earlier Audit Reports	1.2.5	8
Audit planning	1.3	9
Results of audit	1.4	9
Position of local audit conducted during the year	1.4.1	9
This Report	1.4.2	9
CHAPTER-II : TAXES ON SALES, TRADE *ETC.*		
Tax administration	2.1	11
Trend of receipts	2.2	11
Analysis of arrears of revenue	2.3	12
Collection of VAT per assessee	2.4	12
Cost of collection	2.5	13
Impact of audit reports	2.6	13
Working of Internal Audit Wing	2.7	14
Results of audit	2.8	15
Performance Audit on **'Assessment and Collection of Value Added Tax (VAT) and Central Sales Tax (CST)'**	2.9	16
Audit observations	2.10	36
Non-observance/compliance of provisions of Acts/Rules and notification	2.11	36
Short/non-levy of tax on taxable turnover	2.11.1	36
Short levy of tax due to application of incorrect rate of tax	2.11.2	38

	Reference to	
	Paragraph	**Page**
Incorrect grant of benefit of composition Schemes	2.11.3	39
Non-levy/short levy of Entry Tax	2.11.4	42
Underassessment of Entertainment Tax	2.11.5	42
CHAPTER-III : TAXES ON MOTOR VEHICLES		
Tax administration	3.1	43
Trend of receipts	3.2	43
Analysis of arrears of revenue	3.3	44
Cost of collection	3.4	44
Impact of audit reports	3.5	45
Working of Internal Audit Wing	3.6	45
Results of audit	3.7	46
Audit observations	3.8	47
Non-compliance of provisions of the Acts/Rules	3.9	47
Taxes on motor vehicles not realized	3.10.1	47
Non/short realisation of outstanding instalment of lump sum tax	3.10.2	49
Short levy of special road tax in respect of stage carriages of Rajasthan State Road Transport Corporation	3.10.3	49
Issue of driving license by the Transport Department	3.11	50
CHAPTER-IV : LAND REVENUE		
Tax administration	4.1	55
Trend of revenue	4.2	55
Analysis of arrears of revenue	4.3	56
Impact of audit reports	4.4	57
Working of Internal Audit Wing	4.5	57
Results of audit	4.6	58
Audit observations	4.7	59
Non-compliance of provisions of Rules/Circulars	4.8	59
Non/short recovery of cost land	4.9	59
Non-observance of Rajasthan Tourism Unit Policy 2007 in allotment of Government land	4.9.1	59
Non-recovery of cost of land	4.9.2	61
Short recovery of cost of land	4.9.3	62

	Reference to	
	Paragraph	**Page**
Non-recovery of cost of land allotted to Rajasthan Cooperative Dairy Federation Ltd.	4.9.4	63
Short recovery of conversion charges	4.10	63
Non-deposit of conversion charges and interest	4.11	65
Conversion charges and penalties on mobile towers	4.12	65
Non/short recovery/deposit of lease money and interest	4.13	66
Non-recovery of arrears	4.13.1	66
Short recovery of lease money	4.13.2	67
Non-remittance of ground rent in the Government account	4.13.3	68
Absence of provision for charging interest on delayed remittance of Government share resulted in potential loss	4.14	68
Breach of conditions mentioned in the allotments	4.15	69
CHAPTER-V : STAMP DUTY & REGISTRATION FEE		
Tax administration	5.1	71
Trend of receipts	5.2	71
Analysis of arrears of revenue	5.3	72
Cost of collection	5.4	72
Impact of audit reports	5.5	73
Working of Internal Audit Wing	5.6	74
Results of audit	5.7	75
Audit observations	5.8	76
Non-observance of provisions of Acts/Rules	5.9	76
Underassessment/non-execution of lease deeds	5.10	77
Short levy of Stamp Duty (SD) on registration of lease deeds due to non-inclusion of interest amount in the consideration	5.10.1	77
Short levy of SD and RF on lease deeds granted for Premium *etc*. in addition to rent	5.10.2	78
Short levy of SD and RF on developer agreement	5.11	79
Irregular registration of sale deeds through irrevocable general power of attorneys executed out of the State	5.12	82
Under-valuation of property	5.13	82
Non levy of SD on partition deed	5.14	84
Non-levy of SD on the document of transfer of lease by	5.15	85

	Reference to	
	Paragraph	**Page**
way of assignment		
Non-recovery of irregularly exempted Stamp Duty	5.16	85
CHAPTER-VI : STATE EXCISE		
Tax administration	6.1	87
Trend of receipts	6.2	87
Analysis of arrears of revenue	6.3	87
Cost of collection	6.4	88
Impact of audit reports	6.5	88
Working of Internal Audit Wing	6.6	88
Results of audit	6.7	89
Receipts from Sale and Consumption of Lanced Poppy Heads	6.8	90
Other audit observations	6.9	113
Non-observance of the provisions of Act/Rules	6.10	113
Short realisation of hotel bar licence fee	6.10.1	113
Non/short realisation of annual licence fee for composite shops	6.10.2	115
Non-realisation of permit fee	6.10.3	116
CHAPTER-VII: NON-TAX RECEIPTS		
Introduction	7.1	117
Analysis of arrears of revenue	7.2	117
Impact of Audit Reports	7.3	118
Working of Internal Audit Wing	7.4	118
Results of Audit	7.5	119
Audit observations	7.6	120
Non-observance of the provisions of Acts/Rules	7.7	120
Irregular sanction of limestone leases as minor mineral	7.7.1	121
Illegal production of mineral	7.7.2	122
Non-recovery of royalty of mineral lime-stone (cement grade)	7.7.3	123
Unauthorised excavation and use of minerals by public works contractors	7.7.4	124
Mineral excavation without approval of mining plan/ scheme	7.7.5	126
Illegal subletting of lease	7.7.6	127

	Reference to	
	Paragraph	**Page**
Non-raising of demand of cost of mineral excavated and despatched illegally	7.7.7	128
Non/short raising demand of cost of minerals	7.7.8	129
Lacunae in Government order-short recovery of royalty	7.7.9	130
Loss of revenue due to non-recovery of compound fee	7.7.10	132
Short recovery of royalty of SMS grade limestone	7.7.11	133
Non-levy of interest	7.7.12	134
Despatch of mineral without transit pass	7.7.13	135
Non-raising of demand of cost of mineral used at the stone crushers	7.7.14	135
Loss of stamp duty and registration fee due to non-execution of agreement	7.7.15	136

PREFACE

This Report for the year ended 31 March 2012 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2011-12, as well as those noticed in earlier years but could not be included in the previous reports.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

OVERVIEW

This Report contains 43 paragraphs involving ₹ 763.52 crore, including a Performance Audit on **'Assessment and Collection of VAT & CST'** relating to non/short levy of tax, interest, penalty *etc*. Some of the significant audit findings are mentioned below:

I. General

The total revenue receipts of the Government of Rajasthan during 2011-12 were ₹ 57,010.76 crore as against ₹ 45,928.20 crore for the year 2010-11. The revenue raised by the Government amounted to ₹ 34,552.15 crore comprising tax revenue of ₹ 25,377.05 crore and non-tax revenue of ₹ 9,175.10 crore. The receipts from the Government of India were ₹ 22,458.61 crore (State's share of divisible Union taxes: ₹ 14,977.05 crore and grants-in-aid: ₹ 7,481.56 crore).

(Paragraph 1.1)

2,628 Inspection Reports (IRs) containing 8,260 paragraphs involving ₹ 5,958.95 crore remained outstanding at the end of June 2012. Out of these, 922 IRs containing 1,829 paragraphs involving ₹ 438.63 crore were outstanding for more than five years.

(Paragraph 1.2.1)

Test-check during 2011-12 revealed underassessment, non/short levy of taxes and loss of revenue, failure to raise demands and other irregularities aggregating to ₹ 3,119.98 crore in 47,716 cases. The concerned Departments accepted underassessment and other deficiencies of ₹ 1,110.74 crore involved in 17,146 cases, of which 3,896 cases involving ₹ 1,013.90 crore were pointed out in audit during the year 2011-12 and the rest in earlier years. The Departments recovered ₹ 44.26 crore in 8,789 cases at the instance of audit during the year 2011-12.

(Paragraph 1.4.1)

II. Taxes on Sales, Trade *etc.*

A Performance Audit of **'Assessment and Collection of VAT and CST'** revealed the following:

- Test check of the assessment records of 24 dealers revealed that the AAs had not verified the balance sheets, Audit Reports and other related documents attached with the VAT Re turns filed by the dealers. This resulted in non/short levy of tax of ₹ 8.67 crore.

(Paragraph 2.9.8)

- Misclassification of sale of goods as works contract in four cases and incorrect levy of exemption fee in two cases resulted in short realisation of revenue of ₹ 1.13 crore.

(Paragraph 2.9.10)

- Scrutiny of ITC claims of five dealers revealed that the dealers were either not entitled to ITC or claimed ITC in excess of their entitlement. This resulted in excess grant of ITC of ₹ 1.30 crore and interest of ₹ 53.22 lakh was also leviable.

(Paragraph 2.9.11)

- Incorrect computation of deferment of VAT, non-raising of demand and incorrect grant of subsidy under various exemption/deferment schemes resulted in excess deferment of tax ₹ 13.37 crore.

(Paragraph 2.9.12.1 to 2.9.12.3)

- Acceptance of CST declaration forms after assessment in contravention of CST Rules resulted in irregular concession/exemption of tax of ₹ 46.74 crore in 16 cases.

(Paragraph 2.9.13.1)

- No mechanism was put in place by the Department to verify that the goods had been utilised for the purpose for which they were purchased by the dealer. Further, no provision was made for imposing penalty in case of misutilisation of declaration form or certificate. Besides, frequent relaxations in terms and conditions of the notifications were found that benefited the individual dealer.

(Paragraph 2.9.14)

- Delay was noticed in submission of VAT returns and in deposit of VAT in respect 25 dealers in seven circles, however penalty of ₹ 18.09 lakh was not levied.

(Paragraph 2.9.16)

Mistakes in assessments finalised by the Assessing Authorities in six cases resulted in under assessment of taxable turnover involving tax liability of ₹ 1.54 crore including interest of ₹ 38.05 lakh.

(Paragraph 2.11.1)

Incorrect grant of composition scheme to *saraffa/gem* and stone dealers, brick kiln owners, petroleum dealers, registered tent dealers resulted in short realisation of revenue of ₹ 1.05 crore in 23 cases.

(Paragraph 2.11.3)

Non levy of entry tax on the goods purchased from other states for consumption or use in the business resulted in non-recovery of tax of ₹ 61.52 lakh including interest of ₹ 14.66 lakh.

(Paragraph 2.11.4)

Incorrect assessment of entertainment tax by Assessing Officer resulted in short levy of tax of ₹ 2.92 crore and interest of ₹ 1.07 crore.

(Paragraph 2.11.5)

III. Taxes on Motor Vehicles

Motor vehicle tax and special road tax of ₹ 14.99 crore in respect of 5,052 vehicles for the period between April 2007 and March 2011 were either not paid or paid short.

(Paragraph 3.10.1)

Lump sum tax of ₹ 66.92 lakh payable by 172 vehicles was either not paid or paid short resulting in short/non-realisation of revenue.

(Paragraph 3.10.2)

Scrutiny of 1,100 application forms received for issue of license revealed 469 deficiencies like absence of mandatory information and application forms without signatures of candidates etc.

(Paragraph 3.11.2)

The software "In house" did not provide for exemption to the existing license holder from "learning license test" while applying for a different class of license and touch screen machines were not installed in the sub-offices, the preliminary test was taken manually.

(Paragraph 3.11.3.1)

There was no provision in the softwares 'SARATHI' and 'In house' to maintain information about the violations committed by the licensees. No registers were maintained for watching the violations manually.

(Paragraph 3.11.4)

Basic amenities like providing of drinking water, shed, toilets and sitting arrangements for the applicants provided by the Department were not available in many offices.

(Paragraph 3.11.7)

IV. Land Revenue

Land valued at ₹ 5.05 crore was allotted for ₹ 0.56 crore due to application of pre revised Rules. This resulted in loss of revenue of ₹ 4.49 crore.

(Paragraph 4.9.1(i))

The Revenue Department had not amended Rajasthan Industrial area Allotment Rules, 1959 for allotment of land resulting forgoing of revenue of ₹ 1.13 crore.

(Paragraph 4.9.1(ii))

The Department had not taken steps for regularisation of land held by Airport Authority of India and Air Force. This resulted in non-realisation of cost of land valued at ₹ 487.58 crore. Besides, in two other cases the cost of land of ₹ 3.19 crore was not recovered.

(Paragraph 4.9.2)

Conversion charges and penalties amounting to ₹ 1.28 crore was not received from Companies/Individuals/Institutes for using *khatedari* land for Residential/ Institutional/Commercial purposes.

(Paragraph 4.12)

Government share of ground rent and interest amounting to ₹ 5.44 crore was not remitted by the UIT in the Government account.

(Paragraph 4.13.3)

V. Stamp Duty and Registration Fee

Non-registration/Misclassification of developer agreement resulted in short Levy of Stamp Duty and Registration Fee amounting to ₹ 1.27 crore.

(Paragraph 5.11)

Under-valuation of properties due to concealment of fact of land conversion and incorrect classification of land resulted in short levy of stamp duty and registration fee amounting to ₹ 2.20 crore.

(Paragraph 5.13)

Stamp duty amounting to ₹ 49.45 lakh was not levied on the documents of transfer of lease by way of assignment.

(Paragraph 5.15)

VI. State Excise

12,759 licensed opium poppy cultivators did not deposit the declaration forms during the year 2009-10 and 2010-11. The Department had made no efforts to collect these declaration forms.

(Paragraph 6.8.5)

The physical verification reports submitted by the Excise Inspectors regarding confirmation of non-availability of Lanced Poppy Heads (LPH) with cultivators were incomplete and inconsistent.

(Paragraph 6.8.6)

The collection of declaration forms was done by the wholesale licensees of production area, instead of the Department. Further no verification of the forms was done by the Department and incomplete and doubtful declaration forms were accepted.

(Paragraph 6.8.7 and 6.8.8)

The Department issued permit to the wholesale licensees for collection of 11,760 kg un-lanced poppy heads in contravention of rules and breach of the conditions of license.

(Paragraph 6.8.10)

The licensees incurred expenditure of ₹ 228.89 crore on license fee, excise duty, VAT, purchase price etc. during the year 2009-11 whereas the total amount realised by the licensee from sale of LPH was only ₹ 184.22 crore resulting in a clear deficit of ₹ 44.67 crore which needed to be analysed by Government.

(Paragraph 6.8.12)

2,131 permits of addicts were renewed by the Department after periods ranging between 3 and 20 years during 2009-11 though there was no provision in the rules for renewal of permit after lapse of more than one year.

(Paragraph 6.8.15)

339 addicts of LPH registered in a month at a private de-addiction centre of Jodhpur (M/s Rajasthan Pharmacia) were not holding permits from the State Excise Department which shows that there are huge numbers of LPH addicts within the State without holding permits.

(Paragraph 6.8.23.2)

The Department charged license fee for hotel bars under "heritage hotels category" rate without certification of their status as heritage hotels from the Government of India. Issuing of *adhoc* licenses without verification of certificate resulted in loss of ₹ 63 lakh.

(Paragraph 6.10.1 (i))

VII. Non-Tax Receipts

Mines, Geology and Petroleum Department

28 leases were sanctioned for making lime as building material, but the lessees despatched the mineral to cement factories and steel plants in contravention of lease agreement. The cost of mineral of ₹ 240.29 crore though recoverable was not recovered.

(Paragraph 7.7.1)

In 17 cases, cost and royalty of ₹ 80.76 crore for mineral excavated illegally or excavated minerals in excess of the quantity authorised was not recovered.

(Paragraph 7.7.2.1)

Royalty of ₹ 23.42 crore, in respect of 43,81,258 MT limestone shown as waste in the returns during the crushing of limestone into gitties, was not paid by the lease holders.

(Paragraph 7.7.3)

388 contractors excavated the mineral either without obtaining the short term permit or beyond the permissible limit. This resulted in short realization of revenue of ₹ 20.82 crore.

(Paragraph 7.7.4)

It was noticed that cost of mineral and royalty of ₹ 3.94 crore was not recovered from 49 brick kiln owners who used brick earth illegally without obtaining requisite permit and paying royalty.

(Paragraph 7.7.8.1)

Compound fees aggregating to ₹ 48.25 lakh was not recovered along with cost of minerals and royalty from the owners of 193 transport vehicles carrying mineral gypsum unauthorisedly.

(Paragraph 7.7.10)

CHAPTER-I: GENERAL

CHAPTER-I : GENERAL

1.1 Trend of revenue receipts

1.1.1 The revenue receipts of the Government of Rajasthan comprise 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. The position of the receipts during the year 2011-12 and the corresponding figures for the preceding four years is mentioned below:

(₹ in crore)

Sl. No.	Particulars	2007-08	2008-09	2009-10	2010-11	2011-12
1.	**Revenue raised by the State Government**					
	• Tax revenue	13,274.73	14,943.75	16,414.27	20,758.12	25,377.05
	• Non-tax revenue	4,053.93	3,888.46	4,558.22	6,294.12	9,175.10
	Total	**17,328.66**	**18,832.21**	**20,972.49**	**27,052.24**	**34,552.15**
2.	**Receipts from the Government of India**					
	• Share of net proceeds of divisible Union taxes and duties	8,527.60	8,998.47	9,258.13	12,855.63	14,977.05
	• Grants-in-aid	4,924.36	5,638.17	5,154.39	6,020.33	7,481.56
	Total	**13,451.96**	**14,636.64**	**14,412.52**	**18,875.96**	**22,458.61**
3.	**Total revenue receipts of the State Government (1 and 2)**	**30,780.62**	**33,468.85**	**35,385.01**	**45,928.20**	**57,010.76**[1]
4.	**Percentage of 1 to 3**	**56**	**56**	**59**	**59**	**61**

The above table indicates that during the year 2011-12, the revenue raised by the State Government (₹ 34,552.15 crore) was 61 *per cent* of the total revenue receipts. The balance 39 *per cent* of receipts during 2011-12 was received 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 Rajasthan for the year 2011-12. Figures under the head 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0022 - Taxes on agriculture income, 0032 - Taxes on wealth, 0037 - Customs, 0038 - Union excise duties and 0044 - Service tax - share of net proceeds assigned to State booked in the Finance Accounts under A - Tax revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this statement.

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

(₹ in crore)

Sl. No.	Heads 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.*	7,345.84	8,442.02	9,681.38	11,901.24	14,665.63	(+) 23
	Central sales tax	404.90	462.48	482.15	728.35	1,100.80	(+) 51
2.	State excise	1,805.12	2,169.90	2,300.48	2,861.41	3,287.05	(+) 15
3.	Stamp duty and registration fees						
	Stamps-judicial	30.61	30.61	30.47	43.07	79.40	(+) 84
	Stamps-non-judicial	1,316.41	1,137.54	1,104.79	1,522.01	2,153.68	(+) 42
	Registration fee	197.33	188.48	227.68	375.96	418.29	(+) 11
4.	Taxes and duties on electricity	584.23	654.05	699.99	905.81	1,094.48	(+) 21
5.	Taxes on motor vehicles	1,164.40	1,213.56	1,372.87	1,612.25	1,927.05	(+) 20
6.	Taxes on goods and passengers	160.61	189.87	176.10	230.69	220.13	(-) 5
7.	Other taxes on income and expenditure, tax on professions, trades, callings and employments	0.04	0.04	0.04	0.02	0.06	(+) 200
8.	Other taxes and duties on commodities and services	58.91	64.52	58.52	64.43	43.44	(-) 33
9.	Land revenue	155.29	162.52	147.66	222.17	209.01	(-) 6
10.	Other taxes	51.04	228.16	132.14	290.71	178.03	(-) 39
Total		**13,274.73**	**14,943.75**	**16,414.27**	**20,758.12**	**25,377.05**	**(+) 22**

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

Taxes on sales, trade *etc.*: The increase (23 *per cent*) was due to proper monitoring, check on tax evasion and recovery efforts of the Department and increase in the rate of tax on some commodities.

Central sales tax: The increase (51 *per cent*) was due to proper monitoring, check on tax evasion and recovery efforts of the Department.

State excise: The increase (15 *per cent*) was mainly due to more receipt from sale of malt liquor, foreign liquor and spirits.

Stamp duty and registration fee: The increase (37 *per cent*) was due to more sale of judicial and non-judicial stamps, fee for registering documents, court fee and increase in DLC[2] rates.

Taxes and duties on electricity: The increase (21 *per cent*) was due to more receipt of taxes on consumption and sale of electricity.

Taxes on motor vehicles: The increase (20 *per cent*) was mainly due to more receipt of surcharge, green tax and increase in the rate of one time tax.

Other taxes and duties on commodities and services: The decrease (33 *per cent*) was due to less receipt due to abolition of entertainment tax on cinema tickets.

Other taxes: The decrease (39 *per cent*) in collection was due to stay orders granted by various courts.

The other Departments did not inform (November 2012) the reasons for variation although called for (April 2012).

[2] District Level Committee.

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

(₹ in crore)

Sl. No.	Heads of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase (+)/ decrease (-) in 2011-12 over 2010-11
1.	Interest receipts	1,112.43	1,195.96	1,185.45	1,276.70	1,714.53	(+) 34
2.	Forestry and wildlife	58.30	57.74	56.35	93.20	74.95	(-) 20
3.	Non-ferrous mining and metallurgical industries	1,226.61	1,275.59	1,612.26	1,929.58	2,366.32	(+) 23
4.	Miscellaneous general services	919.72	580.33	739.30	271.19	353.09	(+) 30
5.	Major and medium irrigation	57.92	54.16	48.83	86.04	91.83	(+) 7
6.	Medical and public health	39.11	36.87	56.55	45.46	59.38	(+) 31
7.	Co-operation	27.01	18.13	21.03	16.35	22.38	(+) 37
8.	Public works	53.41	93.43	62.75	62.10	55.85	(-) 10
9.	Police	94.81	71.43	126.24	133.93	143.54	(+) 7
10.	Other administrative services	54.71	49.57	49.12	80.33	110.99	(+) 38
11.	Other non-tax receipts	409.90	455.25	600.34	2,299.24	4,182.24	(+) 82
	Total	**4,053.93**	**3,888.46**	**4,558.22**	**6,294.12**	**9,175.10**	(+) **46**

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

Interest receipt: The increase (34 *per cent*) was mainly due to more receipt of interest on investment of cash balances.

Forestry and wildlife: The decrease (20 *per cent*) was due to less receipt under forestry.

Non-ferrous mining and metallurgical industries: The increase (23 *per cent*) was mainly due to more receipt of minerals concession fees, rents and royalties.

Miscellaneous general services: The increase (30 *per cent*) was mainly due to unspent amount of earlier years deposited by State Project Director, State Project Management Unit District Poverty Initiative Project, Jaipur, Urban tax deposited by Urban Improvement Trust, Udaipur and Kota.

Medical and public health: The increase (31 *per cent*) was mainly due to more receipt from the Employees State Insurance Scheme and other receipts.

Co-operation: The increase (37 *per cent*) was mainly due to more receipt of dividends and increase in the rate of registration fees.

Other administrative services: The increase (38 *per cent*) was due to more receipt from fine, forfeitures and other receipts under elections.

Other non-tax receipts: The increase (82 *per cent*) was mainly due to more receipt on account of royalty because of enhanced production of crude oil from Barmer area.

The other Departments did not inform (November 2012) the reasons for variation despite being requested. (April 2012).

1.2 Response of the Government/Department towards Audit observations

The Principal Accountant General (Economic and Revenue Sector Audit), Rajasthan conducts periodical inspection of the Government Departments to test-check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed by issue of the inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial replies to the Principal Accountant General 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.

1.2.1 Outstanding IRs and audit observations

The position of IRs issued upto December 2011was reviewed. It disclosed that 8,260 audit observations involving ₹ 5,958.95 crore relating to 2,628 IRs were outstanding at the end of June 2012. The details of the IRs and audit observations outstanding along with the corresponding figures for the preceding two years are mentioned in the following table:

Particulars	June 2010	June 2011	June 2012
Number of outstanding IRs	2,400	2,469	2,628
Number of outstanding audit observations	6,765	7,464	8,260
Amount involved (₹ in crore)	2,112.69	2,748.76	5,958.95

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

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Amount involved (₹ in crore)
1.	Commercial taxes	Taxes/VAT on sales, trade *etc.*	489	2,177	2,156.74
		Entertainment tax, luxury tax *etc.*	27	27	7.29
		Electricity duty	-	-	-
2.	Transport	Taxes on motor vehicles	433	1,312	397.76
3.	Land revenue	Land revenue	268	457	1,109.02
		Land and buildings tax	8	12	0.49
4.	Registration and stamps	Stamp duty and registration fee	1,009	2,586	114.24
5.	State excise	State excise	152	422	270.47
6.	Mines, geology and Petroleum	Non-ferrous mining and metallurgical industries	242	1,267	1,902.94
Total			**2,628**	**8,260**	**5,958.95**

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 102 IRs issued upto 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 Principal Accountant General in the IRs.

The Government may consider taking suitable steps to introduce an effective procedure for prompt and appropriate response to the audit observations as well as taking action against officials/officers who fail to send replies to the IRs/paragraphs as per the prescribed time schedule and also fail to take action to recover loss/outstanding revenue in a time bound manner.

1.2.2 Departmental Audit Committee Meetings

The Government set up audit committees to monitor and expedite the progress of the settlement of paragraphs in the IRs. The Departments were required to conduct at least four meetings (one in each quarter) of audit committee in a year. Besides, for settlement of audit paragraphs, audit sub-committee meetings were also to be organised in the Departments. The details of the audit committee and audit sub-committee meetings held during the year 2011-12

and the paragraphs settled are mentioned below:

Name of Department	Number of audit committee meetings held	Number of audit sub-committee meetings held	Number of paragraphs settled	Amount (₹ in crore)
Commercial taxes	2	-	-	-
Transport	3	2	145	3.89
Land revenue	-	5	46	12.48
Registration and stamps	2	13	142	0.96
State excise	4	1	10	0.45
Mines, geology and Petroleum	2	-	-	-
Total	**13**	**21**	**343**	**17.78**

The above table indicates that no paragraph was settled in Commercial taxes and Mines, Geology and Petroleum departments. The number of audit committee meetings held was less than four except for State Excise Department.

It is recommended that the Government may issue instructions to the concerned departments for increasing the frequency of audit committee meetings so that a good number of paragraphs are settled on the spot.

1.2.3 Response of the Departments

The Finance Department issued directions to all the Departments in August 1969 to send their response to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within three weeks of their receipt. The draft paragraphs are forwarded to the Secretaries of the concerned Departments through demi-official letters drawing their attention to the audit findings and requesting them to send their response within the prescribed time. The fact of non-receipt of replies from the Government is invariably indicated at the end of each such paragraph included in the Audit Report.

Ninety draft paragraphs (clubbed into 43 paragraphs of this report) including a Performance audit on "Assessment and collection of Value Added Tax and Central Sales Tax" proposed to be included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2012 were forwarded to the Secretaries of the respective Departments between September and November 2012. Out of these, replies have been received from the concerned Departments in 46 cases. In addition to this the findings of the Performance Audit on "Assessment and collection of Value Added Tax and Central Sales Tax" were discussed with the Commercial Taxes Department/ Government in the Exit Conference.

1.2.4 Follow-up on Audit Reports - summarised position

According to the instructions issued by the Finance Department, all Departments are required to furnish explanatory memoranda vetted by the Audit to the Secretariat of the State Legislature in respect of paragraphs

included in the Audit Reports within three months of their being laid on the table of the House.

The position of paragraphs which appeared in the Audit Reports and those pending for discussion as on 30 September 2012 is given in **Annexure-A**. A total of 111 paragraphs pertaining to the period 2005-06 to 2010-11 were pending for discussion by the Public Accounts Committee.

As per the Rules and Procedures of the Public Accounts Committee of the Rajasthan State Assembly framed in 1997, the concerned Departments have to take necessary steps to send their action taken notes on the recommendations of the Public Accounts Committee on the Audit Reports within six months from the date of its presentation to the House. We observed that 189 action taken notes were outstanding as on 30 September 2012 as detailed in **Annexure-B**.

1.2.5 Compliance to the earlier Audit Reports

The position of paragraphs included, accepted, amount recovered in the Audit Reports during the last ten years as on 30 September 2012 is mentioned in the following table:

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year[3]	Cumulative position of recovery of accepted cases
2001-02	45	448.86	36	99.65	Nil	30.52
2002-03	46	382.52	36	220.03	Nil	62.83
2003-04	31	381.48	30	234.77	Nil	49.52
2004-05	27	276.63	23	16.14	Nil	6.15
2005-06	39	352.81	27	118.93	Nil	23.28
2006-07	41	315.25	25	254.28	0.05	6.60
2007-08	39	666.55	34	246.83	2.47	99.19
2008-09	48	392.71	32	71.80	0.22	21.85
2009-10	28	638.85	20	431.15	10.63	17.13
2010-11	32	617.96	16	335.70	7.69	7.69
Total	**376**	**4473.62**	**279**	**2029.28**	**21.06**	**324.76**

During the years from 2001-02 to 2010-11, 376 paragraphs involving ₹ 4,473.62 crore were included in the Audit Reports. The Government/ Departments accepted audit observations involving ₹ 2,029.28 crore, of which ₹ 324.76 crore (16 *per cent*) only had been recovered (30 September 2012) during the last 10 years.

The Government may consider setting up of a mechanism to ensure that recoveries are made in case of the accepted paragraphs.

[3] January 2012 to September 2012.

1.3 Audit planning

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

During the year 2011-12, the audit universe comprised 758 auditable units, of which 409 units were planned and audited during the year 2011-12, which is 54 *per cent* of the total auditable units. Besides the Transaction Audit, one Performance Audit was also taken up to examine the efficacy and working/procedure of the Departments.

1.4 Results of audit

1.4.1 Position of local audit conducted during the year

Test check of the records of 409 units of Commercial Taxes, Transport, LandRevenue, Registration and Stamps, State Excise, Mining and other Departmental offices conducted during the year 2011-12 revealed under-assessments, short levy/loss of revenue *etc.* aggregating to ₹ 3,119.98 crore in 47,716 cases. During the year, the concerned Departments accepted under-assessments and other deficiencies in 17,146 cases involving Government revenue of ₹ 1,110.74 crore, of which, 3,896 cases involving ₹ 1,013.90 crore were pointed out in audit during 2011-12 and the rest in the earlier years. The concerned Departments collected ₹ 44.26 crore in 8,789 cases during 2011-12.

1.4.2 This Report

This Report contains 43 paragraphs including one **Performance Audit on "Assessment and collection of Value Added Tax and Central Sales Tax"** involving revenue implications of ₹ 763.52 crore. The Departments/ Government have accepted audit observations involving ₹ 353.77 crore, of which ₹ 10.74 crore have been recovered. The replies in the remaining cases have not been received (November 2012). These are discussed in succeeding Chapters II to VII.

CHAPTER-II

TAXES ON SALES, TRADE ETC.

CHAPTER-II: TAXES ON SALES, TRADE *ETC.*

2.1 Tax administration

The Commercial Taxes Department deals mainly with Value Added Tax, Central Sales Tax, Entry Tax, Luxury Ta x, Entertainment Tax and Electricity Duty which are regulated by the following Acts and Rules made thereunder:

1. Rajasthan Value Added Tax (RVAT) Act, 2003;
2. Central Sales Tax (CST) Act, 1956;
3. Rajasthan Tax on Entry of Goods into Local Areas Act, 1999 ;
4. Rajasthan Tax on Luxuries (in Hotels and Lodging Houses) Act, 1990;
5. Rajasthan Entertainments and Advertisements Tax Act, 1957; and
6. Rajasthan Electricity (Duty) Act, 1962.

The assessment, levy and collection of value added tax in Rajasthan is governed by the RVAT Act, 2003 effective from 1.4.2006. Besides, CST Act, 1956 and the rules made thereunder are also in operation for inter-state sales.

The Commissioner of Commercial Taxes is responsible for administration at the Departmental level, while Secretary, Finance (Revenue) Department exercises administrative powers at the Government level. The Commissioner of Commercial Taxes is assisted by seven Additional Commissioners, 34 Deputy Commissioners, 48 Assistant Commissioners, 101 Commercial Taxes Officers and 523 Assistant Commercial Taxes Officers.

2.2 Trend of receipts

Actual receipts from the taxes on sales, trade *etc.* vis-a-vis budget estimates during the years 2007-08 to 2011-12 along with the total tax receipts of the State during the same period is exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percen-tage of variation	Rate of growth	Total tax receipts of the State	Percentage of actual receipts to total tax receipts
2007-08	7,676.00	7,750.74	(+) 74.74	(+) 0.97	15.33	13,274.73	58.39
2008-09	8,500.00	8,904.50	(+) 404.50	(+) 4.76	14.89	14,943.75	59.59
2009-10	10,030.00	10,163.53	(+) 133.53	(+) 1.33	14.14	16,414.27	61.92
2010-11	11,730.00	12,629.59	(+) 899.59	(+) 4.67	24.26	20,758.12	60.84
2011-12	13,490.00	15,766.43	(+) 2276.43	(+) 16.87	24.84	25,377.05	62.13

The receipts of the taxes on sales, trade *etc* remained between 58.39 and 62.13 *per cent* of the total tax receipts of the State. It was also noticed that there was constant increase in the revenue collection under this head. As would be seen from the above that the receipts of the taxes on sales, trade *etc.* is major

contributor of revenue receipts. It's contribution has increased from 58.39 *per cent* in 2007-08 to 62.13 *per cent* in 2011-12.

2.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 amounted to ₹ 2,927.35 crore, of which ₹ 997.68 crore were outstanding for more than five years. The following table depicts the year-wise position of arrears of revenue as on 31 March 2012:

(₹ in crore)

Year of arrear	Total arrears as on 01.04.2011	Recovery during the year 2011-12	Recoveries outstanding as on 31.03.2012
Upto 2006-07	1,039.68	41.82	997.68
2007-08	287.12	59.06	228.06
2008-09	729.02	290.40	438.62
2009-10	963.86	547.68	416.18
2010-11	2,070.26	1,223.63	846.63
Total	**5,089.94**	**2,162.59**	**2,927.35**

The above table indicates that ₹ 997.68 crore were pending collection for more than five years. The stages at which the arrears are pending were not furnished (November 2012) by the Department despite being requested (July 2012).

Since with the passage of time, the possibility of recovering the arrears becomes remote, **it is recommended that the Government may consider instructing the Department for monitoring the recovery of arrears at each stage and take effective steps for effecting the recoveries**.

2.4 Collection of VAT per assessee

The following statement shows collection of Sales Tax/Value Added Tax per assessee during the last five years:

Year	Number of assessees	Sales Tax/VAT Revenue (₹ in crore)	Revenue per Assessee (₹ in lakh)
2007-08	3,19,537	7,750.74	2.43
2008-09	3,44,852	8,904.50	2.58
2009-10	3,76,688	10,163.53	2.70
2010-11	4,09,323	12,629.59	3.09
2011-12	4,55,035	15,766.43	3.45

It is appreciable that revenue per assessee was increasing every year.

2.5 Cost of collection

The gross collection of the revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the period from 2007-08 to 2011-12 along with the relevant all India average percentage of expenditure on collection to gross collection for the period are as follows:

(₹ in crore)

Sl. No.	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of the preceding year
1.	2007-08	7,750.74	53.76	0.70	0.82
2.	2008-09	8,904.50	70.21	0.80	0.83
3.	2009-10	10,163.53	85.90	0.85	0.88
4.	2010-11	12,629.59	86.97	0.69	0.96
5.	2011-12	15,766.43	84.89	0.54	0.75

It would be seen from the above that the percentage of expenditure to the revenue collection was lower than the all India average percentage of the preceding year.

2.6 Impact of Audit Reports

During the last five years upto 2010-11, through our audit reports, we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation of tax *etc.* with revenue implication of ₹ 306.39 crore in 43 paragraphs. Of these, the Department/Government had accepted audit observations in 27 paragraphs involving ₹ 166.39 crore and had recovered ₹ 2.13 crore (September 2012). The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number of paragraphs	Amount
2006-07	11	150.61	6	144.26	3	0.14
2007-08	5	17.88	2	0.32	2	0.32
2008-09	10	28.25	7	17.79	5	0.96
2009-10	8	4.47	5	2.23	5	0.58
2010-11	9	105.18	7	1.79	2	0.13
Total	**43**	**306.39**	**27**	**166.39**	**17**	**2.13**

The percentage of recovery is 1.28 *per cent* of the accepted amount. The low percentage of recovery indicates that the department had not recovered even the accepted amount.

The Government may issue instructions to the Department to speed up the recovery, at least in respect of the accepted cases.

2.7 Working of Internal Audit Wing

The Financial Advisor is the head of the Internal Audit Wing. In the Department, 13 internal audit parties are working, each headed by an Assistant Accounts Officer. Planning for internal audit of units is made on the basis of importance and revenue realisation. The position of last five year's internal audit was as under:

Year	Pending units	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remained unaudited	Shortfall in *per cent*
2007-08	0	443	443	378	65	15
2008-09	65	396	461	357	104	23
2009-10	104	393	497	299	198	40
2010-11	198	384	582	489	93	16
2011-12	93	384	477	411	66	14

There was a shortfall in conducting internal audit ranging between 14 and 40 *per cent* during the years 2007-08 to 2011-12.

It was further noticed that 17,016 paragraphs of internal audit were outstanding at the end of the year 2011-12. Year-wise break up of outstanding paragraphs is as under:

Year	Up to 2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	Total
No. of paras	8,427	1,724	1,662	1,753	1,614	1,926	**17,016**

8,427 paragraphs of internal audit reports were outstanding upto the year 2006-07 indicating that the Department was not monitoring the settlement of the observations raised by its own Internal Audit Wing.

2.8 Results of Audit

During test-check of the records of 96 units of the Commercial Taxes Department conducted during the year 2011-12, we noticed non/under-assessment of tax, irregular grant of exemption, non-levy of interest and other irregularities amounting to ₹ 963.20 crore in 1,971 cases which broadly fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	**Performance Audit on 'Assessment and Collection of Value Added Tax and Central Sales Tax'**	1	389.09
2.	Non-assessment of taxable turnover	298	338.55
3.	Under-assessment due to irregular or incorrect allowances of deduction	93	2.72
4.	Short levy of tax due to application of incorrect rate of tax	49	2.82
5.	Irregular grant of exemption	146	16.39
6.	Non-levy of purchase tax	10	0.22
7.	Non-levy of penalty/interest	169	2.98
8.	Other irregularities	1,205	210.43
Total		**1,971**	**963.20**

During the year 2011-12, the Department accepted under-assessment and other deficiencies of ₹ 4.98 crore in 232 cases, of which 31 cases involving ₹ 10 lakh had been pointed out in audit during the year 2011-12 and the others in the earlier years. The Department recovered ₹ 2.63 crore in 15 cases during the year 2011-12, of which four cases involving ₹ 3 lakh related to the year 2011-12 and the others to the earlier years.

A Performance Audit on **'Assessment and Collection of Value Added Tax and Central Sales Tax'** involving ₹ 389.09 crore and a few illustrative audit observations involving ₹ 7.11 crore are mentioned in the succeeding paragraphs.

2.9 Performance Audit on 'Assessment and collection of Value Added Tax (VAT) and Central Sales Tax (CST)'

Highlights

- Test-check of the assessment records of 24 dealers revealed that the AAs had not verified the balance sheets, Audit Reports and other related documents attached with the VAT Returns filed by the dealers. This resulted in non/short levy of tax of ₹ 8.67 crore.

(Paragraph 2.9.8)

- Misclassification of sale of goods as works contract in four cases and incorrect levy of exemption fee in two cases resulted in short realisation of revenue of ₹ 1.13 crore.

(Paragraph 2.9.10)

- Scrutiny of ITC claims of five dealers revealed that the dealers were either not entitled to ITC or claimed ITC in excess of their entitlement. This resulted in excess grant of ITC of ₹ 1.30 crore and interest of ₹ 53.22 lakh was also leviable.

(Paragraph 2.9.11)

- Incorrect computation of deferment of VAT, non-raising of demand and incorrect grant of subsidy under various exemption /deferment schemes resulted in excess deferment of tax ₹ 13.37 crore.

(Paragraph 2.9.12.1 to 2.9.12.3)

- Acceptance of CST declaration forms after assessment in contravention of CST Rules resulted in irregular concession/exemption of tax of ₹ 46.74 crore in 16 cases.

(Paragraph 2.9.13.1)

- No mechanism was put in place by the Department to verify that the goods had been utilised for the purpose for which they were purchased by the dealer. Further, no provision was made for imposing penalty in case of misutilisation of declaration form or certificate. Besides, frequent relaxations in terms and conditions of the notifications were found that benefited the individual dealer.

(Paragraph 2.9.14)

- Delay was noticed in submission of VAT returns and in deposit of VAT in respect 25 dealers in seven circles, however penalty of ₹ 18.09 lakh was not levied.

(Paragraph 2.9.16)

2.9.1 Introduction

The assessment, levy and collection of Value Added Tax (VAT) and Central Sales Tax (CST) are governed by Rajasthan Value Added Tax Act, 2003 (RVAT Act) and Central Sales Tax Act, 1956 (CST Act) and the Rules framed thereunder. Every dealer who is an importer of goods or whose turnover exceeds rupees ten lakh or a manufacturer of goods whose annual turnover exceeds rupees two lakh is required to be registered under the RVAT Act by submitting an application to the competent authority. The certificate of registration so granted is non-transferable and remains in force unless cancelled. Tax is levied on the taxable turnover of sale of goods at the rates specified in the Acts.

A registered dealer is deemed to be assessed quarterly or annually on the basis of the returns filed by him in accordance with Section 23 of RVAT Act 2003. However, if any mistake is detected the dealer is given an opportunity to file a revised return under Section 24 of RVAT Act 2003 and deposit the tax accordingly. If the registered dealer does not file the return or does not rectify mistake in the return within the period allowed, the Assessing Authority (AA) shall finalise the assessment to the best of his judgment.

Section 27 of RVAT Act, 2003 provides that the Commissioner, Commercial Taxes (CCT) may arrange for audit of the business of such registered dealers who are selected on the basis of any criterion or on random selection basis specified by him or in respect of whom there are reasons to believe that detailed scrutiny of their business is required.

2.9.2 Organisational Setup

The Commissioner, Commercial Taxes (CCT) administers the VAT and CST receipts under the overall control of Secretary, Finance (Revenue) Department, Government of Rajasthan. The CCT is assisted by seven Additional Commissioners and 34 Deputy Commissioners (DC) and one Financial Advisor. The internal audit wing reports to the Financial Advisor (FA). The DC is the senior most administrative officer at zonal level[1]. Each zone also has a separate DC as DC (Appeals) who is the first appellate authority.

2.9.3 Audit objectives

We conducted the Performance Audit to:

- ascertain whether the provisions of RVAT Act, 2003 and Rules made thereunder were adequate and enforced accurately to safeguard the revenue of the state;
- evaluate degree of compliance by the dealers with the provisions of the Act;
- quantify loss of revenue or underassessment or other irregularities in the assessment; and
- examine whether the internal control mechanism within the department was effective.

[1] The Commercial Tax Department has 13 administrative Zones.

2.9.4 Audit criteria

The audit criteria for Performance Audit were derived from the provisions of the following Acts, Rules and notifications issued thereunder:

State laws

- Rajasthan Value Added Tax Act, 2003;
- Rajasthan Value Added Tax Rules, 2006; and
- Central Sales Tax (Rajasthan) Rules, 1957.

Central laws

- Central Sales Tax Act, 1956; and
- Central Sales Tax (Registration and Turnover) Rules, 1957.

2.9.5 Scope, Methodology and Reason for selection of Performance Audit

Records of 17 circles[2] out of 109 circles along with office of the CCT and Deputy Secretary (Tax) to Government covering the period from 2008-09 to 2010-11 were selected for detailed audit scrutiny. Selection of circles was made on the basis of 'probability proportional to size with replacement method of sampling'. In addition to the above, a circle 'Special Rajasthan Jaipur,' was selected as more than 40 *per cent* of the total VAT and CST collection of the State was made by this circle.

An Entry Conference was held on 16 January 2012, in the office of CCT, Jaipur wherein objectives of the Performance Audit were explained. The Factual Statement/Draft Paragraph was forwarded to the Government and the Commissioner in June/October 2012. An Exit Conference was held on 25 October 2012 with Commissioner, Commercial Taxes and Deputy Secretary (Tax), Finance Department wherein the findings of the Performance Audit were discussed. The replies received during the Exit Conference and at other point of time have been appropriately commented in the relevant paragraphs.

Reasons for selection of the topic: The receipts under VAT/CST are the highest contributors of tax revenue in the State of Rajasthan. The receipts are constantly increasing each year and a number of discrepancies were being pointed out by audit through Inspection Reports. Besides, no Performance Audit on this subject was conducted since the implementation of VAT, as such it was felt appropriate to conduct a Performance Audit on this topic.

2.9.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the cooperation extended by the Commercial Taxes Department and their officers and staff in providing necessary information and records to audit.

[2] Circles: Special-III Jaipur, Special-I Bhiwadi, Special Ajmer, Special Rajasthan Jaipur, Special-I Jaipur, Special Alwar, C Jaipur, B Jodhpur, G Jaipur, J Jaipur, Suratgarh, Sikar, A Ajmer, WT Alwar, WT Jodhpur Anti-Evasion – I Rajasthan Jaipur and Anti-Evasion –II Rajasthan Jaipur.

Audit findings

2.9.7 Absence of a format for business audit assessment report

Section 27 of RVAT Act, 2003 provides that the CCT may arrange for audit of the business of such registered dealers who are selected on the basis of any criterion specified or on random selection basis or reasons to believe that detailed scrutiny of their business is required and an audit report is required to be prepared under the Act.

It was noticed that CCT had not selected any case for business audit for the years 2006-07 and 2007-08. However, for the years 2008-09 and 2009-10 though business audit was conducted, no account statement like balance sheet trading account were kept on record. No format for preparation of the Audit report was prescribed under the Act. In the absence of the accounts and the format, the correctness of the assessments made could not be ascertained in audit.

After this was reported, the Government/Department stated during Exit Conference that a committee has been constituted in the Department which has *inter alia* been entrusted with the work of prescribing a format for Audit Report and action will be taken as per recommendations of the committee.

It is recommended that the Government/Department may consider prescribing a format for the Audit Report to be prepared by the AA.

2.9.8 Non/short levy of tax of self assessment cases

It was noticed that the Department accepted all assessments under Sections 23 and 24 of the RVAT Act, 2003 for the year 2006-07 and 2007-08 but audit of the business of the dealers was not conducted for these years. A few observations noticed during scrutiny of 24 cases relating to the period 2006-07 to 2008-09 where business audit was not conducted are mentioned in the following paragraphs:

As per Schedule IV and V of RVAT Act, tax on the sale of plants and machinery and used motor vehicles was 4 *per cent* and on tent was 12.5 *per cent.*

2.9.8.1 During scrutiny of balance sheet attached with the returns filed by 19 dealers in five circles,[3] it was noticed the dealers had sold plant and machinery, used motor vehicles and tent during 2006-07 to 2008-09. However, the sale of these assets was not disclosed in the returns filed by the dealers. The AAs did not detect the omission though Audit Reports of Chartered Accountants indicating the sale of the fixed assets were attached with the Returns. The omission of the AAs resulted in non-levy of tax of ₹ 4.70 lakh and interest ₹ 1.56 lakh.

After this was reported, the Government stated (October 2012) that demand of ₹ 2.98 lakh had been raised in eight cases of three circles. Reply in the remaining cases has not been received (November 2012).

[3] Circles: Special-III Jaipur, Special-I Jaipur, Special Rajasthan Jaipur, W.T. Jodhpur and Special-I Bhiwadi

Section 2(35)(iv) of RVAT Act, 2003 provides that a transfer of right to use goods for any purpose for cash, deferred payment or other valuable consideration shall be deemed to be a sale of goods by the person making the transfer.

2.9.8.2 Scrutiny of balance sheet attached with the VAT Returns of three electricity distribution companies[4] revealed that these companies were providing electric meters and service lines to consumers for supplying electric energy for which they were collecting rental charges. During the years 2006-07 to 2008-09, the companies collected rental charges amounting to ₹ 46.41 crore. However, these companies did not pay VAT on rental charges. The AAs while accepting the Returns did not detect the mistakes. This resulted in non-recovery of tax of ₹ 5.80 crore and interest of ₹ 2.37 crore.

As per Schedule IV and V of RVAT Act, 'bearing' is taxable at four *per cent* and ' grease' is taxable at the rate of 12.5 *per cent*.

2.9.8.3 A dealer (M/s Bearing and Bearing, Jaipur) of Special-I Circle, Jaipur was registered for bearing, grease and oil. Scrutiny of the VAT Return and the trading account obtained from the dealer for the year 2008-09 revealed that the dealer in addition to 'bearing' had sold 'grease' and 'oil' valued ₹ 35.85 lakh[5], but paid tax at four *per cent* instead of 12.5 *per cent* resulting in short deposit of tax of ₹ 3.05 lakh. Besides, interest of ₹ 0.92 lakh and penalty of ₹ 6.09 lakh were also leviable.

Under sub-section (7) of Section 4 of the RVAT Act, 2003 any registered dealer, who imports into, or manufactures in, the State such goods as may be notified by the State Government, may, at his option, pay, in lieu of the tax payable by him on sale price of such goods under this Act, a tax at full rate on the maximum retail price (MRP) of such goods in the manner as may be prescribed.

On 31 March 2006, the State Government notified drugs and medicines, to be the goods for which option can be exercised.

2.9.8.4 During test-check of records of Circle Special Rajasthan, Jaipur, it was noticed (February 2012) that a dealer (M/s Ranbaxy Laboratories Ltd.) dealing in medicines had exercised the option to pay tax on MRP. The dealer supplied medicines valued at ₹ 7.74 crore under free scheme (samples, bonus goods and replacements) during the year 2008-09 but did not pay tax though they were liable to pay tax on all goods supplied to the purchasers. However, the AA while finalising the assessment (November 2010) of the dealer did not levy tax on medicines amounting to ₹ 7.74 crore supplied by the dealer under

[4] Jaipur Vidyut Vitran Nigam Limited, Ajmer Vidyut Vitran Nigam Limited and Jodhpur Vidyut Vitran Nigam Limited (Companies)

[5] Minimum sale value of grease comes to ₹ 43.36 lakh (opening stock ₹ 9.25 lakh + purchase ₹ 44.29 lakh – closing stock ₹ 10.18 lakh). Evaded value of grease comes to ₹ 35.85 lakh (minimum sale value ₹ 43.36 lakh – sale shown in trading account ₹ 9.54 lakh + 6 per cent profit ₹ 2.30 lakh as calculated by audit).

free scheme/ replacement. This resulted in non-levy of tax of ₹ 30.96 lakh and interest of ₹ 9.29 lakh.

After this was reported, the Government stated (October 2012) that tax had already been paid on goods supplied under free scheme. The reply is not correct as Audit Report of the Chartered Accountant attached with the returns indicated in the 'Note' that the dealer had not paid VAT on samples, bonus goods and replacements.

It is recommended that the Department may issue instructions to the AAs for obtaining and scrutinising the annual accounts/Audit reports of the chartered accountants at the time of accepting Returns under Section 23 and 24 of the RVAT Act.

2.9.9 Lack of Co-ordination within the Department

As per Section 75 of RVAT Act, 2003, an AA has the power to survey the place of business of a dealer.

A survey of a dealer (M/s Tata Sky Limited) of Special Circle IV, Jaipur, was conducted on 11.2.2009 by the Anti Evasion-I Rajasthan Circle Jaipur. The survey team found that the company received ₹ 1,000 per consumer for *hand stand, cable, conductor etc.,* called as activation hardware during the course of sale of Set Top Box for direct to home broadcasting services but did not pay the tax on activation hardware.

The Anti Evasion-I Rajasthan Circle Jaipur finalised (January 2010) the assessment for the period from April 2008 to January 2009 and levied tax along with penalty for activation hardware supplied with 96,242 Set Top Boxes. However, as per the records of the dealer available in Special Circle IV, Jaipur, he had sold 1,15,098 Set T op Boxes during the year 2008-09. But tax on activation hardware supplied with the remaining 18,856 Set Top Boxes was not levied. This resulted in short levy of tax of ₹ 16.50 lakh on sale of activation hardware valued at ₹ 1.32 crore supplied with 18,856 Set Top Boxes, besides, interest of ₹ 4.95 lakh and penalty of ₹ 33 lakh.

2.9.10 Misclassification of sale as works contract and short levy of exemption fee

Air conditioner and electronic meter are taxable at the rate of 12.5 *per cent* as per Schedule V to RVAT Act, 2003 and as per notification dated 11 August 2006, exemption fee is leviable on the turnover of works contract at the rates prescribed under the Act.

2.9.10.1 During the test-check of assessment records of three circles,[6] it was noticed that the AAs, while finalising (between March 2010 and February 2011) the assessments of four dealers for the years 2007-08 and 2008-09 treated the turnover of ₹ 6.41 crore relating to the supply and installation of air-conditioning plants and BER Electronics Meters as works contract and levied

[6] Circles: Special-I Jaipur, Special Rajasthan Jaipur & W.T. Jodhpur

exemption fee of ₹ 17.73 lakh. The dealers were registered for sale of 'Air conditioners' and 'Electronic meters' and such supply and installation of the said goods constitutes sale and the contract for the labour component was incidental for converting the main component into the end product. This resulted in short levy of tax of ₹ 62.35 lakh and interest of ₹ 18.95 lakh.

The State Government vide notification dated 11 August 2006 exempted the registered dealer engaged in the execution of works contract from payment of tax leviable on the transfer of property in the goods involved in the execution of works contract subject to the condition that AA shall issue the Exemption Certificate and such dealer pay exemption fee at the rate specified as under:

Sl. no.	Description of works contract relating to	Rate of exemption fee (% of the total value of contract)
1	Building, roads, bridges, dams, sewerage system.	1.50 *per cent*
2	Installation of plants and machinery including PSPO, water treatment plant, laying of pipe line with material.	2.25 *per cent*
3	Any other kind of works contract.	3.00 *per cent*

2.9.10.2 During test-check of records of Works Tax Circle, Alwar, it was noticed that a dealer (M/s Gannon Dunkerly and Co. Ltd., Alwar) had executed works contract during 2007-08. The AA, while finalising the assessment of the dealer, assessed the exemption fee on turnover of ₹ 56.03 crore instead of ₹ 61.08 crore as shown in the returns. This resulted in short levy of exemption fee of ₹ 11.35 lakh and interest of ₹ 4.77 lakh.

After this was pointed out, the AA stated (September 2012) that a demand of ₹ 16.87 lakh had been raised.

2.9.10.3 During test-check of records of Works Tax Circle, Alwar, it was noticed that a dealer (M/s Gannon Dunkerly and Co. Ltd., Alwar) had executed works contract relating to construction of power plant and cement plant during 2008-09. The AA, while finalising the assessment of the dealer, assessed the exemption fee at the rate of 1.5 *per cent* instead of 2.25 *per cent*. This resulted in short levy of exemption fee of ₹ 11.68 lakh and interest of ₹ 3.50 lakh.

After this was pointed out, the AA stated (September 2012) that a demand of ₹ 12.70 lakh had been raised.

2.9.11 Input Tax Credit (ITC)

2.9.11.1 Excess allowance of input tax credit

During test-check of records of three circles, it was noticed that five dealers were either not entitled to ITC or claim ITC in excess of their entitlement, however, while finalising the assessments the omission was not detected by the AAs. This resulted in excess grant of ITC of ₹ 1.30 crore and interest of ₹ 53.22 lakh as detailed below:

> As per Section 18 (1) of RVAT Act, 2003 input tax credit shall be allowed to registered dealers, in respect of purchases of any taxable goods made within the State from a registered dealer for the purposes as stated in this sub section. However, if the goods purchased, are used partly for the purposes as specified in the sub section and partly as otherwise, ITC will be allowed on proportionate basis and was not admissible on capital goods that were not sold.
>
> Further, as per Section 2(33) of RVAT Act, 2003 that part of input tax for which credit has been availed in contravention of provisions of Section 18 will be reversed.

(i) A dealer (M/s Hindustan Petroleum Corporation Ltd., Jaipur) of Anti Evasion-II, Rajasthan Circle, Jaipur had claimed ITC on purchase of cylinders during 2006-07 to 2008-09 which were used for storing and transporting Liquefied Petroleum Gas (LPG). The benefit of the ITC was not admissible as the cylinders were not sold to the distributors along with the LPG and were returned back by the distributors after consuming the LPG gas by consumers and as per annual accounts of the oil company, cylinders were being shown as fixed assets and depreciation was being charged thereon. As the ownership of the cylinders remained with the dealer (oil company), therefore ITC was not admissible on these fixed assets as per Section 18(1). The ITC amounting to ₹ 1.10 crore for the three years needs to be reversed along with interest of ₹ 45.93 lakh.

(ii) A dealer (M/s Vishal Retail Store Ltd., Jaipur) claimed ITC of ₹ 1.07 crore on purchase of goods valued at ₹ 15.12 crore during 2008-09. The AA, Anti Evasion-II, Rajasthan Circle, Jaipur reversed ITC of ₹ 3.39 lakh on purchase return of goods valued at ₹ 39.18 lakh and allowed ITC of ₹ 1.03 crore on purchase of goods valued at ₹ 14.73 crore.

However, on scrutiny of VAT Audit Re port we found that the dealer had purchased goods valued at only ₹ 13.37 crore from registered dealers of the State. Therefore, the ITC of ₹ 5.43 lakh on goods valued at ₹ 1.36 crore[7] was not admissible and should have been reversed. The omission of the AA resulted in excess grant of ITC of ₹ 5.43 lakh. Besides, interest of ₹ 1.63 lakh was also leviable.

(iii) A dealer (M/s Om Metals Auto Pvt. Ltd., Jaipur) of Special Circle, Rajasthan, Jaipur claimed ITC on goods valued at ₹ 1.24 crore during

[7] (₹ 14.73 crore - ₹ 13.37 crore)

2008-09. On scrutiny of VAT Audit Report, it was found that the dealer had purchased goods valued at ₹ 50.52 lakh only from the registered dealer in the State. However, the AA, while finalising the assessment, did not reverse the tax of ₹ 9.23 lakh on goods valued at ₹ 73.48 lakh. Besides, interest of ₹ 2.77 lakh was also leviable.

(iv) A dealer (M/s Garima Gum Industrie s, Jaipur) of Circle C, Jaipur had used '*ganwar*' of ₹ 9.39 crore in the manufacturing process and claimed ITC of ₹ 30.02 lakh on purchase of '*ganwar*' valued at ₹ 7.51 crore during 2006-07. On scrutiny of trading account and VAT Audit Report of the dealer, it was noticed that the dealer had sold taxable goods valued at ₹ 6.76 crore, out of total sale of goods valued at ₹ 10.30 crore. Thus, the dealer had consumed goods of ₹ 6.16 crore only. Thus, ITC of ₹ 24.66 lakh on proportionate basis was admissible instead of ₹ 30.02 lakh. Therefore ITC of ₹ 5.36 lakh was irregularly allowed by the AA. Besides, interest of ₹ 2.89 lakh was also leviable.

After this was pointed out, the Government intimated (October 2012) that a demand of ₹ 8.01 lakh (tax ₹ 5.52 lakh and interest ₹ 2.49 lakh) has been raised. A report on recovery has not been received (November 2012).

(v) Grant of ITC without verification

As per Section 18(2) of RVAT Act, 2003, the claims of ITC shall be allowed on the tax deposited on the basis of original VAT invoice within three months from the issuance of such invoice. The CCT vide circular dated 1 September 2009 also instructed the AAs to verify ITC while allowing such credit.

During test-check of assessment records of selected circles, it was noticed that AAs while finalising the assessment of dealers had allowed ITC claims without prior verification of tax deposited as per the VAT invoice.

After this was pointed out, the Department stated during Exit Conference that a clearing house has been created for verification of ITC claims. Online filing of returns has been made mandatory for all dealers w.e.f. 01 April 2012 which will result in online verification of ITC.

It is recommended that the Department may direct the AAs to allow ITC only after prior verification of tax paid and actual use of goods purchased.

2.9.12 Schemes regarding subsidy and deferment/exemption of tax

With a view to attract entrepreneurs for new industrial investment and for growth of industries in the State, the State Government notified various Sales Tax Exemption and Deferment Schemes in 1987, 1989 and 1998 under RST/CST Act and Rajasthan Investment Promotion Scheme, 2003 (RIPS). Further, by issue of notification dated 31 March 2006 under Section 20(3) of RVAT Act, 2003 the industrial units ava iling the benefit of exemption from tax under these schemes were allowed to defer the payment of tax payable by them. A few irregularities regarding exce ss grant of subsidy and deferment of tax were noticed as mentioned below:

As per para 7(i)(b) read with proviso of para 7 and 7(ii) of the RIPS, the subsidy shall be allowed of interest paid at the rate of five *per cent* on loan raised for modernization/expansion subject to a maximum of 75 *per cent* of the additional amount of RST/VAT and CST payable or deposited by the unit over and above the highest tax payable or deposited whichever is higher, in any of the three preceding years (base year). Further, breach of any condition shall make the subsidy amount liable to be recovered as tax along with interest at the rate of 18 *per cent* per annum from the date from which subsidy was provided.

2.9.12.1 During test-check of records of Circle Special Rajasthan, Jaipur, it was noticed that a dealer (M/s DCM Shriram Consolidated Ltd., Jaipur) was sanctioned subsidy during 2008-09 to 2010-11 on account of modernisation/ expansion of the unit. The AA incorrectly considered the base year[8] as 2003-04 in which tax amount was ₹ 6.03 crore. It was noticed that while determining the base year, amount of exemption allowed during that year was not included. As per the assessment records the base year of the dealer was 2001-02[9] after including exemption amount for which tax of ₹ 7.35 crore was payable. Thus the dealer was entitled to subsidy of ₹ 8.19 crore instead of ₹ 10.69 crore. This resulted in excess grant of subsidy of ₹ 2.50 crore and interest of ₹ 67.48 lakh.

The Government replied (October 2012) that a demand of ₹ 1.89 crore for the period January 2008 to March 2009 had been raised and notice for remaining period had been issued.

As per provision of Sales Tax Incentive Scheme for Industries, 1987 read with notification dated 31 March 2006, benefit of sales tax exemption and deferment was limited to ₹ 4 crore in respect of an industrial unit.

2.9.12.2 During test-check of records of Circle C, Jaipur it was noticed that a manufacturing unit (M/s Rishabh Computronix Ltd., Jaipur) was allowed exemption and deferment benefit of ₹ 9.81 crore from 2005-06 to 2008-09.

Audit scrutiny of assessment orders revealed that the dealer had opted for deferment benefit under notification dated 31 March 2006 and therefore was eligible for maximum tax exemption/deferment of ₹ 4 crore. The AA had incorrectly allowed deferment benefit upto ₹ 9.81 crore *i.e.* an excess deferment of tax of ₹ 5.81 crore[10] and interest of ₹ 1.88 crore.

[8] For the preceding three years tax payable including the exemption amount was ₹ 7.35 crore, ₹ 6.59 crore and ₹ 7.18 crore for the year 2001-02, 2002-03 and 2003-04 respectively. According to this, tax amount of ₹ 7.35 crore for the year 2001-02 was maximum and should have been taken as base year instead of tax amount of ₹ 6.03 crore.

[9] For the preceding three years tax payable including the exemption amount was ₹ 7.35 crore, ₹ 6.59 crore and ₹ 7.18 crore for the year 2001-02, 2002-03 and 2003-04 respectively. According to this, tax amount of ₹ 7.35 crore for the year 2001-02 was maximum and should have been taken as base year instead of tax amount of ₹ 6.03 crore.

[10] 2007-08 ₹ 1.17 crore and 2008-09 ₹ 4.64 crore and interest of ₹ 1.88 crore.

After this was pointed out the Government replied (October 2012) that a demand of ₹ 8.62 crore (tax ₹ 5.81 crore and interest ₹ 2.81 crore) has been raised. A report on recovery has not been received (November 2012).

The State Government vide notification dated 31 March 2006 allowed to defer the payment of tax payable by the industrial units availing the benefit of exemption from tax under either the Sales Tax New Incentive Scheme for Industries (Incentive Scheme), 1989 or the RST/CST Exemption Scheme for Industries 1998. Further, as per Section 17 of RVAT Act, 2003, the term 'tax payable by a dealer' is the amount of output tax less the amount of ITC.

2.9.12.3 During test-check of records of eight Circles[11], it was noticed that the AAs while finalizing assessment of 11 dealers allowed deferment of tax of ₹ 3.06 crore without deducting ITC of ₹ 1.84 crore from output tax.

This resulted in excess grant of deferment of tax of ₹ 1.84 crore and interest of ₹ 66.38 lakh.

The Government replied (October 2012) that demands of ₹ 1.19 crore had been raised in case of Circle-J, Jaipur and Circle Special-1, Bhiwadi.

2.9.12.4 A dealer (M/s Hindustan Coca Cola Breweries Pvt. Ltd. Jaipur) of Special Rajasthan Circle, Jaipur was availing exemption from payment of tax under Sales Tax/Central Sales Tax Exemption Scheme for Industries, 1998 (Exemption Scheme). The survey of business place of the dealer was conducted on 22.07.2006. During survey, it was found that the dealer had collected tax at the rate of 12.5 *per cent* but deposited at the rate of 6.25 *per cent* in the Government account. On the basis of survey, the AA assessed tax of ₹ 2.24 crore, interest of ₹ 4.91 lakh and penalty of ₹ 2.24 crore for the period 1 April 2006 to 15 July 2006.

The dealer filed an appeal in the High Court against the assessment order. The Court vide its order dated 02.04.2009 declared the penalty as illegal and quashed and set aside the assessment orders passed on 09.10.2006 and directed the State Government to declare the method of implementation of Exemption Scheme within six months from the date of receipt of certified copy of the judgment. The High Court further ordered that the Department shall be free to initiate the assessment proceeding against the dealer only after the method has been declared by the State of Rajasthan and the assessment order shall be in accordance with the law and in accordance with the method so declared by the State.

In compliance of the order of the court, AA vide order dated 30.06.2009 removed the total demand for the period 1 April 2006 to 15 July 2006 from Demand and Collection Register (DCR). The State Government issued clarification on 21.08.2009 for adopting the method of implementation of Exemption Scheme. However, we found (March 2012) that the AA did not

[11] Circles: J Jaipur, Special-I Bhiwadi, C Jaipur, B Jodhpur, Sikar, C Jodhpur, Special-II Bhiwadi and Special-V Jaipur.

re-assess the tax. This resulted in non-raising of demand of tax of ₹ 2.24 crore and interest off ₹ 13.25 lakh.

After this was pointed out, the Government stated (October 2012) a revised assessment order had been passed. However, amount of demand raised and recovery position was not intimated.

2.9.12.5 Non-maintenance of Records relating to deferment cases

It was noticed that dealer-wise position of deferred amount of tax and total tax deferred was not available with the Department. During scrutiny of records of 11 test checked circles,[12] it was found that tax amounting to ₹ 318.37 crore was deferred in 43 cases up to 2010-11. It was further noticed that the demand of the deferred tax of ₹ 318.37 crore was not recorded in DCRs by the AAs. Audit could not ascertain the fact whether demands were monitored for recovery.

The Government replied (October 2012) that the circles were maintaining specific register to monitor the receipt of deferred tax. However, it was observed that the registers so maintained by the circles for monitoring the deferred tax were neither updated nor verified by the AAs. Besides, maintenance of DCR is prescribed as per instructions issued by CCT, its non maintenance resulted in non-monitoring of timely payment of deferred tax.

The Government accepted the issue during Exit Conference and stated that detailed guidelines would be issued for recording the details of deferred tax with maintenance of DCR.

It is recommended that the Department may record the details of the deferred tax in the DCRs so that it's correct position and timely payment is ascertained.

2.9.13 Levy and collection of CST

2.9.13.1 Acceptance of declaration forms after assessment

As per Rule 12(7) of the CST (Registration & Turnover) Rules, 1957, the declaration in form 'C' or form 'F' or the certificate in form 'E-I/E-II' shall be furnished to the prescribed authority within three months after the end of the period to which the declaration or the certificate relates to claim exemption/ concession from tax.

During the test-check of assessment records of 16 dealers in the seven circles,[13] it was noticed that demand of ₹ 46.74 crore including interest ₹ 8.54 crore was raised by the AA on interstate sales that were not supported by the prescribed declarations during the period 2010-11. However, on

[12] Circles: Special-III Jaipur, Special-I Bhiwadi, Special Ajmer, Special Rajasthan Jaipur, Sikar, Special-I Jaipur, C Jaipur, B Jodhpur, Special Alwar, G Jaipur, J Jaipur.

[13] Circles: Special-III, Jaipur, Special-I, Jaipur, Special Alwar, Special Rajasthan Jaipur, E-Jaipur, Tonk and Works Tax-I Jaipur.

submission of declaration forms by these dealers, the AAs reduced the demand. Reducing of the demand by the authority that had finalised the assessments was not correct.

This resulted in irregular concession/exemption of tax of ₹ 38.20 crore and interest of ₹ 8.54 crore to dealers.

The Government replied (October 2012) that as per Rule 12(7) of the CST (Registration & Turnover) Rules, 1957, the AA can provide further time after his satisfaction. The reply is not correct as the AAs had finalised the assessments and accepting the Forms after finalisation of the assessments was not correct.

The Department may instruct the AAs not to accept declaration forms after the assessments are finalised by them.

2.9.13.2 Irregular exemption of tax on transfer of goods

As per Section 6(A)(1) of the CST Act, 1956, that if the movement of the goods from one State to another is not supported with 'F' form it shall be deemed to have been occasioned as a result of sale and the dealer shall be liable to pay tax under this Act.

During the test-check of records of Anti Evasion-II, Rajasthan Circle, Jaipur, it was noticed that a dealer (M/s Reliance Industries Ltd., Jaipur) had shown ₹ 6.94 crore as branch transfer during the year 2008-09 in chartered accountant's VAT Audit Report. The dealer furnished declaration forms 'F' for availing exemption in tax for goods valued at ₹ 6.10 crore only. Thus, the remaining branch transfer of ₹ 84.28 lakh was not supported by declaration form 'F' and was exigible to tax. This escaped the notice of the AA and resulted in irregular exemption of tax of ₹ 10.54 lakh. Besides, interest of ₹ 3.16 lakh was also leviable.

2.9.13.3 Irregular grant of exemption on invalid forms

As per Rule 12(1) read with Rule 21(9)(b) of the CST (Registration and Turnover) Rules, 1957, a single declaration form 'C' and 'E-I/II' may cover all transaction of sale, which take place in a quarter of a financial year between the same two dealers.

During test-check of records of Circle Works Tax, Jodhpur it was noticed that a dealer (M/s G.K.C. Project Ltd., Jodhpur) had sold goods valued at ₹ 9.94 crore during 2008-09 under Section 6(2) of CST Act. Scrutiny of declaration forms revealed that the dealer had produced one E-I form of ₹ 8.37 crore containing the transaction of two quarters (quarter ending December 2008 and March 2009).

The AA, while finalising (February 2012) the assessment of the dealer, accepted the transactions of the two quarters instead of only one quarter. This resulted in irregular exemption of tax of ₹ 5.38 lakh[14] including interest of ₹ 1.24 lakh.

[14] The declaration form was admissible fo r only one quarter. The quarter that had comparatively lesser transaction was disallowed *i.e.* ₹ 1.04 crore.

2.9.13.4 Short levy of tax on Inter-State sales due to application of incorrect rate of tax

As per Section 8 of the CST Act, 1956, every registered dealer who sells goods in the course of inter-state trade to another registered dealer shall pay tax at the concessional rate of three *per cent* w.e.f. 1 April 2007 to 31 May 2008 and two *per cent* thereafter, provided the selling dealer furnishes declarations in form 'C' in support of sales; otherwise tax is leviable at the rate applicable to the sale or purchase of such goods inside the State.

As per schedule V appended to RVAT Act, 2003, electrical goods are chargeable to VAT at 12.5 *per cent.*

During test-check of records of Special Circle, Alwar it was noticed that a dealer (M/s Dhruv Electricals, Alwar) had sold electrical goods valued at ₹ 73.77 lakh in course of inter-state trade without submitting 'C' form in support of the aforesaid sales. However, the AA, while finalising (October 2010) the assessment, charged the tax at the rate of four *per cent* instead of 12.5 *per cent.* This resulted in underassessment of tax of ₹ 6.27 lakh and interest of ₹ 2.38 lakh.

After this was pointed out (December 2011), the AA intimated (December 2011) that demand of ₹ 8.65 lakh had been raised. However, status of recovery is awaited (November 2012).

2.9.14 Lack of provisions in rules and notifications

2.9.14.1 Deficiency in provision for exemption in tax

Rule 21 of RVAT Rules, 2006 provides that a dealer can claim partial or full exemption from payment of tax on sale of goods:

(a) to another dealer in the State on production of declaration form/certificate required to be furnished under relevant notification/rules along with his return;

(b) in the course of export out of the territory of India on production of a declaration in form VAT-15 duly filled and signed by the exporter along with his return.

It was noticed that the State Government had exempted fully/partly the following purchasing dealers from payment of tax on sale of goods on production of declaration form through notifications issued from time to time under Section 8(3) of RVAT Act, 2003 as

mentioned in the following table::

Sl. No.	Class of dealers	Date of notification	Condition of exemption
1.	Purchase of Capital Goods by Manufacturing Dealer	27.08.2008	Being used as 'capital goods, their parts and accessories' under the RVAT Act, 2003.
2.	BSF Canteen	25.05.2009	Purchased for exclusive sale to the members of the Force.
3.	Equipments of Central Effluent Treatment Plant and Chemicals	08.07.2009	To be used exclusively for the purpose of Central Effluent Treatment plant.
4.	Purchase of Timber by manufacturer of Handicrafts	30.07.2009	To be used as raw material for manufacture of handicrafts in the State.

It was noticed that no mechanism was put in place by the Department to verify that the goods had been utilised for the purpose for which they were purchased by the dealer. Further, no provision was made for imposing penalty in case of misutilisation of declaration form or certificate.

The Government/Department stated during Exit Conference that the provisions are being included in the format of VAT Audit Report.

2.9.14.2 Frequent relaxation of exemption notifications for benefit of individual dealers

The State Government is empowered to issue notifications under different Sections of RVAT Act, 2003 and CST Act, 1956 in 'public interest'. It was noticed that certain notifications were issued allowing certain additional benefits to the individual dealers in 'public interest'. However, relevant records were not made available to audit. In absence of records it was not possible to ascertain the basic requirement, ground and methodology/system adopted for exemption, reasons for granting additional exemptions and consequent benefit to the State Government and the people of the State at large. A few cases are mentione d in the following paragraphs.

Scrutiny of a notification available on the Departmental website revealed that by issue of notification under sub-section (5) of Section 8 of the CST Act, 1956, the State Government exempted (6 May 2006) M/s Arafat Petrochemicals Pvt. Ltd. (Company) from the tax leviable under the said Act in excess of 0.50 *per cent* on the sales made in course of inter-state trade or commerce of POY, PKT Chips, PSFs, Ac rylic Fibre, Nylon Yarn, Methanol, Tyre Cord Yarn and Fabric manufactured by all the five units of the textiles complex situated at Kota within the State subject to certain condition. However, the State Government amended this notification twice, and relaxed

the conditions mentioned in the original notification as shown in table below:

Conditions	Original notification dated 6 May 2006	Notification dated 7 December 2006	Notification dated 20 August 2009
Investment	Make total investment of ₹ 80 crore by 31 March 2007	Make total investment of ₹ 80 crore by 31 March 2009	Make Total investment of ₹ 50 crore by 31 March 2009
Direct Employment	Direct employment to 2000 persons by 31 March 2007	500 persons by 31 March 2009	500 persons by 31 March 2013
Use of Assets	Use all the assets lying unused for the last seven years	last seven years, by 31 March 2009	last seven years, by 31 March 2013

As seen from the table, the Department kept on relaxing the conditions for availment of exemption of tax. The reason for providing these relaxations could not be ascertained as the records in this regard were not made available. It was also not possible to quantify the tax exemption granted to the dealer through these notifications. However, the dealer failed to meet the conditions set in the notifications each time.

It is recommended that Department may

- **Consider putting in place a mechanism to ensure that the goods are being utilised for the purpose for which exemption/ concession was allowed. A provision may be made for imposing penalty in case of misutilisation of declaration form or certificate.**
- **Basic requirement set forth in the notifications granting exemptions may be made transparent and may not be altered frequently by issue of fresh notifications.**

2.9.15 Internal Control

2.9.15.1 Deletion of demand from DCR

It was noticed that there was no control mechanism to watch whether all entries of outstanding demands had been carried forward by the AAs in the DCR of the current year. A case in this regard is illustrated below:

During test-check of DCR of Circle Anti Evasion-I, Rajasthan, Jaipur, it was noticed that a demand of ₹ 7.73 lakh was outstanding against a dealer (M/s Carrier Builder Jaipur) which was entered at Red Entry number 36 in the DCR for the year 2006-07. However, the demand of ₹ 7.73 lakh was not carried forward in the DCR for the year 2007-08. The AA had also not verified the DCR of 2006-07 to ensure that all entries had been correctly entered in the DCR of 2007-08.

After this was pointed out (October 2011), the AA intimated (November 2011) that demand of ₹ 7.73 lakh had been created at serial number 83 of DCR for the year 2011-12.

The Government replied (October 2012) that the remaining entries of DCR as at the end of the year were carried forward in red ink and certified in the DCR

of next year by the AA. Internal audit wing of the Department also checked the DCR. However, the above illustration indicates that such checks were not exercised by them.

The Government may consider evolving an effective system to ensure that all entries of outstanding demand had been carried forward in the DCR of the current year.

2.9.15.2 . Compliance of instructions issued by the Department

(i) Issue of notices without despatch number

During test-check of records of selected circles, it was noticed that despatch register for issue of demand notices/show cause etc were not being maintained in any of the circles test checked. The notices were despatched without mentioning dispatch numbers. In absence of despatch number in the notices, the possibility that the dealers were issued notices/demand orders on back dates could not be ruled out.

The Government replied (October 2012) that demand notice is issued after making its entry in the DCR and date-wise entries are made in the DCR. However, the fact is that DCR are not meant for allotting the dispatch numbers, for this purpose separate dispatch registers may be maintained.

(ii) Adjustment of deposits without verification from Revenue Collection Register (RCR)

As per circular dated 31 May 2008, the CCT directed the AAs to provide the adjustment of deposit only after its proper verification from the Revenue Collection Register (RCR).

During test-check of records of selected circles, it was noticed that adjustment of deposits was provided by the AAs on the basis of part IV of the challan without verification of deposits from the RCR. In absence of verification from RCR, the authenticity of deposits by the dealers could not be ensured.

The Government replied (October 2012) that directions are being issued for adjustment of deposits after verification from RCR.

(iii) Cross verification of records with other departments

As per the Departmental instructions issued on 27 April 2009, AAs were to cross verify and collect information from other revenue department such as Income Tax, Central Excise, Service Tax *etc.* Further, the AAs were also directed to collect information from Banks, Electricity Companies etc. These were issued to verify the accuracy of details of transactions provided by the dealers in their returns.

Audit scrutiny of selected circles revealed that no such cross verification was done. In absence of cross verification, the information filed by the dealer could not be cross verified with information filed in returns with other departments such as Income Tax, Central Excise *etc.*

The Government replied (October 2012) that cross verification is done with other Departments by the anti-evasion branch. However, there was nothing on record to indicate that cross verification of the information filed by the dealers in his returns was done with the concerned departments.

The Government may consider putting in place a system for conducting cross verification of transactions of the dealers with the concerned departments in a phased manner at regular periodical intervals.

2.9.16 Short/non-imposition of penalty

As per Section 58 of RVAT Act, 2003, any dealer who is required to pay tax every month has without reasonable cause, failed to furnish prescribed returns within time allowed, a sum equal to ₹ 100 per day for first fifteen days of such default and thereafter a sum equal to ₹ 500 per day for the period during which the default in furnishing such returns was continuous, but not exceeding in the aggregate 30 *per cent* of the tax assessed will be recovered from the dealer by way of penalty with effect from 08 July 2009. Prior to this the rate of penalty was ₹ ten per day.

2.9.16.1 During test-check of records of six circles[15] it was noticed (between August 2011 and March 2012) that 24 dealers had submitted their "fourth quarterly returns" for the year 2008-09 after delay of seven to 489 days. While finalising (between May 2010 and February 2011) the assessment of the dealers, AAs had imposed penalty at the pre revised rates *i.e.* rate of ₹ 10 per day instead of ₹ 100 per day for first fifteen days and ₹ 500 thereafter. This resulted in short imposition of penalty of ₹ 9.49 lakh.

Section 63 of RVAT Act, 2003 provides that where an awarder of a works contract, after having deducted the amount in lieu of tax from the bill does not deposit the same in the prescribed manner and time, he shall be liable to pay tax deducted by him and a penalty at the rate of two *per cent* per month on the amount so deducted.

2.9.16.2 During test-check of records of Circle Works Tax, Jodhpur, it was noticed (March 2012) that an awarder (M/s Nagarjun Construction Co. Ltd, Jodhpur) had deducted ₹ 33.72 lakh during 2007-08 and ₹ 49.39 lakh during 2008-09 in lieu of tax from the bills of the contractor. During scrutiny of assessment order it was found that the awarder had deposited the tax after delays ranging from one to eight months in 2007-08 and two to eight months in 2008-09. The awarder was liable to pay penalty of ₹ 2.95 lakh for the year 2007-08 and ₹ 5.65 lakh for the year 2008-09 respectively.

However, the AA, while finalising (between March 2010 and February 2011) the assessment of the dealer (awarder), did not impose penalty resulting in non-levy of penalty of ₹ 8.60 lakh.

The Government replied (October 2012) that demands of ₹ 2.12 lakh had been raised in three cases of Circle Special, Ajmer and Special Rajasthan, Jaipur. Reply in the remaining cases is awaited (November 2012).

[15] Circles: Special-III Jaipur, Special-I Jaipur, Special Ajmer, J Jaipur, Special Rajasthan Jaipur and Special-I Bhiwadi.

2.9.17 Non-levy of tax on cess

As per Section 2(36) of RVAT Act, 2003, sale price means "any statutory levy or any sum charged for anything done by a dealer in respect of the goods or services rendered at the time of or before the delivery thereof shall be included in sale price of such good".
Further, rule 22(5) of RVAT Rules, 2006 provides that the amount of cess levied by the State Government for specific purpose shall be deducted for determination of taxable turnover.

During scrutiny of assessment records of Petroleum Companies in Circle Special Rajasthan, Jaipur and records of CCT, it was noticed that Petroleum Companies deposited VAT on diesel and petrol on depot price during 2007-08 to 2010-11. The Petroleum Companies also charged cess of ₹ 500 per kilolitre both for diesel and petrol which was not included in sale price for calculating VAT. This was accepted by the Department and accordingly assessment orders were passed.

However, deduction of cess from taxable turnover was in contravention to the provisions of RVAT Act, 2003. As cess was the part of sale price for levy of tax, exclusion of this for calculation of sale price resulted in loss of tax of ₹ 183.13 crore as detailed below:

(i) Diesel

(₹ in crore)

Year	Sale of diesel in Kiloliter	Cess payable @ ₹500 per Kiloliter	VAT rate in percentage	VAT payable on cess
2007-08	35,78,820	178.94	20	35.79
2008-09	37,15,977	185.80	18	33.44
2009-10	39,35,088	196.75	18	35.42
2010-11	38,95,153	194.76	18	35.06
Total				**139.71**

(ii) Petrol

(₹ in crore)

Year	Sale of Petrol in Kiloliter	Cess payable @ ₹500 per Kiloliter	VAT rate in percentage	VAT payable on cess
2007-08	6,63,292	33.16	28	9.28
2008-09	7,40,386	37.02	28	10.37
2009-10	8,42,066	42.10	28	11.79
2010-11	8,55,741	42.79	28	11.98
Total				**43.42**

The Government replied (October 2012) that the Department was not including cess as part of the sale price because as per rule 22(5) of RVAT Rules, 2006 the amount of cess levied by the State Government for specific purpose is deducted for determination of taxable turnover and rules are framed

by the Government for implementation of the Act. Statutory levy as mentioned in Section 2(36) of the Act is of general nature whereas the cess is levied for specific purpose. Therefore, there is no contradiction in the provision of Section 2(36) of RVAT Act, 2003 with th e provision of rule 22(5) of RVAT Rules, 2006. Audit does not agree with the Department's stand as the Act clearly states that any statutory levy or any sum charged for anything done by a dealer in respect of the goods or services rendered at the time of or before the delivery thereof shall be included in sale price. Thus, the provision made in the rule for deduction of amount of cess from taxable turnover is in contravention of the provisions of the Act.

The Government may consider reconciling the provision in the RVAT Act and RVAT Rules.

2.9.18 Conclusion

Cases of underassessment, irregular allowance of ITC and excess grant of deferment of tax, interest and subsidy, non-observance of Departmental instructions and provisions of the Act indicate that the Department needs to strengthen its internal controls so that the chances for leakage of the revenue are minimised. Greater transparency is required in grant of exemption and relaxing/altering the conditions once set forth in the exemption orders.

2.9.19 Recommendations

The Government may consider the following recommendations:

- **may issue instructions to the AAs for obtaining and scrutinising the annual accounts/Audit reports of the chartered accountants at the time of accepting Returns under Section 23 and 24 of the RVAT Act;**
- **may direct the AAs to allow ITC only after prior verification of tax paid and actual use of goods purchased;**
- **may record the details of the deferred tax in the DCRs so that it's correct position and timely payment is ascertained;**
- **may instruct the AAs not to accept declaration forms after the assessments are finalised by them; and**
- **may consider evolving an effective system to ensure that all entries of outstanding demand had been carried forward in the DCR of the current year.**

2.10 Audit observations

Audit observed during test-check of the assessment records of VAT in Commercial Taxes Department several cases of non-observance of provisions of Acts/Rules, non/short levy of tax/interest, incorrect computation of tax, incorrect grant of composition amount in lieu of tax liability under RVAT Act. Some of these omissions were pointed out in earlier years also, but not only do the irregularities persist these also remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit so that recurrence of such cases can be avoided.

2.11 Non-observance/compliance of provisions of Acts/Rules and Notifications

The RVAT Act, Rules and Notifications provide for;

(a) levy of tax at prescribed rates on the taxable turnover;

(b) allowing benefit of the Composition Schemes for saraffa/gems and stones dealers, brick kiln owners, tent and petroleum dealers subject to compliance of certain conditions specified therein;

(c) levy of entry tax; and

(d) levy of entertainment tax.

Test-check of records revealed that the said provisions were not correctly observed by the assessing authorities leading to non/short levy/realisation of tax/interest as stated in paragraphs 2.11.1 and 2.11.5.

2.11.1 Short/non-levy of tax on taxable turnover

Under Section 4 of the Rajasthan Value Added Tax Act, 2003, the tax payable by a dealer under this Act shall be levied on the taxable turnover of sale of goods as specified in Schedule III to VI at the rates mentioned against each of such goods in the said Schedules. Interest is leviable on delayed payment of tax under Section 55 of the Act *ibid*.

During test-check of the assessment records of five offices[16] (between July 2011 and February 2012), it was observed that while finalising the assessment of six dealers, the AAs under-assessed the taxable turnover resulting in short/non-levy of tax of ₹ 1.16 crore and interest of ₹ 38.05 lakh as mentioned below:

(i) During test-check of assessment records of a dealer (M/s Schindler Pvt. Ltd., Jaipur) it was observed that while finalising the assessment (March 2011) for the period 2008-09, the Assessing Authority assessed the tax on the amount of commissioning and installation charges by adopting incorrect figures viz. the amount as ₹ 17.50 lakh instead of the correct amount of

[16] Circles: Special-II Jaipur, Special-VII Jaipur, Special Rajasthan, Jaipur, G Jaipur and J Jaipur.

₹ 175.50 lakh. This resulted in short levy of tax of ₹ 19.75 lakh and interest of ₹ 5.92 lakh.

The omission was pointed out to the Department (February 2012) and reported to the Government (April 2012). The Government intimated (July 2012) that a demand of ₹ 27.65 lakh including interest of ₹ 7.90 lakh has been raised in May 2012. A report on reply on recovery has not been received (November 2012).

(ii) It was observed that while finalising the assessment (February 2010) of a dealer (M/s Shree Balaji Steel Scrap Trading Co., Jaipur) for the period 2007-08, the Assessing Authority assessed tax on turnover of ₹ 424.84 lakh and incorrectly exempted tax on turnover of ₹ 367.16 lakh as tax free goods, though the dealer had not claimed any exemption on the turnover. As per quarterly returns, tax statement and VAT Audit Report submitted by the dealer, total taxable turnover of the dealer was ₹ 792.00 lakh. Thus, the omission resulted in non-assessment of taxable turnover of ₹ 367.16 lakh involving tax of ₹ 14.69 lakh and interest of ₹ 6.17 lakh (calculated up to March 2011).

The omission was pointed out to the Department (September 2011) and reported to Government (September 2011). The Government intimated (July 2012) that a demand of ₹ 22.91 lakh including interest of ₹ 8.22 lakh has been raised in May 2012. A report on reply on recovery has not been received (November 2012).

(iii) It was noticed that two dealers sold 'de-oiled rice bran' during 2006-07 to 2008-09. 'De-oiled rice bran' is taxable at the rate of 4 *per cent* as per entry number 64 of Schedule IV appended to the Act. However, the AAs while finalizing the assessment of dealers had not levied tax treating it as tax free sale. Therefore, incorrect treatment of sale of 'de-oiled rice bran' as tax free commodity resulted in non-levy of tax of ₹ 67.97 lakh and interest of ₹ 23.55 lakh as detailed below:

(₹ in lakh)

Sl. No.	Name of circle and dealer	Period and date of order	Value of the goods on which tax was not levied	Tax leviable @ 4 *per cent*	Interest leviable
1	Circle-G, Jaipur (M/s N.A. Trading Company, Jaipur)	2006-07/ 06.03.2009	328.79	13.15	7.10
		2008-09/ 11.08.2010	578.81	23.15	6.95
2	Circle-J, Jaipur (M/s Vishnu Kumar & Co, Jaipur)	2008-09/ 04.01.2011	791.71	31.67	9.50
Total				**67.97**	**23.55**

The omission was pointed out to the Department (December 2011) and reported to Government (June 2012). The Government replied (October 2012) in case of Circle J, Jaipur that a demand of ₹ 46.24 lakh including interest of ₹ 14.57 lakh had been raised. A report on reply on recovery has not been received (November 2012).

(iv) During test-check of records of Circle G, Jaipur it was noticed that a dealer (M/s Gupta Alloys, Jaipur) had sold goods of ₹ 149.46 lakh received on consignment basis during 2008-09 and collected output tax of ₹ 5.98 lakh. However, the AA, while finalising the assessment of the dealer did not include these sales in the total taxable turnover which resulted in non-assessment of tax of ₹ 5.98 lakh.

The omission was pointed out to the Department (December 2011) and reported to Government (June 2012), their replies are awaited (November 2012).

As per explanation II of Section 2(36) of RVAT Act, 2003, cash or trade discount at the time of sale shall be excluded from the sale price but any ex-post-facto grant of discount shall not be excluded.

(v) During test-check of records of Circle Special Rajasthan, Jaipur it was noticed that the AA while finalising the assessment of a dealer (M/s Marico Ltd., Jaipur) for the year 2008-09, assessed tax on turnover excluding the discount of ₹ 1.47 crore granted after issuance of VAT invoice. Irregular allowance of discount after sale resulted in underassessment of tax of ₹ 8.03 lakh and interest of ₹ 2.41 lakh.

The omission was pointed out to the Department (December 2011) and reported to Government (June 2012). The Government replied (October 2012) that a demand of ₹ 10.44 lakh had been raised. A report on recovery has not been received (November 2012).

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

Under Section 4 of the RVAT Act, 2003, the tax payable by a dealer under this Act shall be levied on the taxable turnover of sale of goods specified in Schedule III, IV and VI at the rate mentioned against each of such goods in the said Schedules. Goods not covered in any Schedule under the Act, are liable to be taxed at the rate of 12.5 *per cent* under Schedule V appended to the Act. Further, interest under Section 55 of RVAT Act is also leviable for default in making payment of tax.

Test-check of the assessment records of a dealer M/s Deep Sons Engineering, Jaipur for the year 2008-09 in the Assistant Commissioner, Circle B, Jaipur (2010-11) revealed that AA levied (September 2010) tax at 4 *per cent* by treating Electronic Milk Tester as capital goods. However, the dealer had sold the components of electronic milk tester valued at ₹ 58.52 lakh. This was not part of capital goods but was part/component of manufactured items. These components were also not specified in the Schedule I to IV and VI and liable to be taxed at 12.5 *per cent* under Schedule V. Thus, due to application of incorrect rate of tax, there was short levy of tax of ₹ 4.97 lakh and interest of ₹ 1.49 lakh.

The omission was pointed out to the Department (February 2012) and reported to the Government (March 2012). The Government intimated (June 2012) that the dealer had sold components of electronic milk tester and these fall under the category of capital goods. Reply is not as per Section 2(7) of RVAT Act,

2003 as components of electronic milk tester are not covered under capital goods. These were sold as raw materials for manufacture of electronic milk testers.

2.11.3 Incorrect grant of benefit of composition Schemes

(i) *Saraffa*/Gems and Stones dealers

As per clause 5.4 of the Composition Schemes for *Saraffa*/Gems and Stones dealers, if a dealer fails to deposit the composition amount in the specified period he shall be allowed to avail the benefit of the scheme, if he deposits the whole amount which has become due along with interest thereon together with a late fee before March 31 of the relevant financial year. Further, as per clause 7.6/7.7 of the schemes if the dealer violates any of the conditions of the scheme the dealer shall be liable for action under the provisions of the RVAT Act and rules made thereunder.

It was noticed (January 2012) from the test-check of assessment records of the year 2009-11 of six dealers[17] in Commercial Taxes Office Circle-H, Jaipur that the dealers opted for composition amount. The turnover of the dealers was ₹ 31.82 crore under RVAT Act, 2003 during 2007-09 with tax liability of ₹ 31.82 lakh. But the dealers either did not deposit or deposited it late. The total amount paid by the dealers was ₹ 5.08 lakh. The Assessing Authority did not point out the mistake at the time of accepting the returns resulting in short realisation of tax of ₹ 26.74 lakh besides interest of ₹ 9.27 lakh (calculated upto March 2011) was also leviable.

The omissions were pointed out to the Department (January and February 2012) and reported to the Government (January and March 2012). In case of M/s KJ Gems, Jaipur, the Government intimated (September 2012) that a demand of ₹ 14.61 lakh had been raised (June and July 2012). A report on recovery and replies in respect of the remaining dealers has not been received. (November 2012).

(ii) Brick kiln owners

As per paragraph 5.1 of the Composition Scheme for Brick Kilns (Scheme) the dealers can opt for composition of tax and pay composition amount as per the rates prescribed in the notification. The dealers were required to opt for the scheme within sixty days from the publication of the notification or within 30 days from the date of issuance of registration certificate whichever is later. Further, schedule date of quarterly payments is mentioned in the paragraph 4.1 of the scheme. As per paragraph 7.6 of the Scheme if the dealer violates any of the conditions of the Scheme the dealer shall be liable for action under the provisions of the RVAT Act an d rules made thereunder.

[17] 1. M/s Khandaka Jain Jewellers, 2. M/s Hardik Impex, 3. M/s Raj Ratan Jewellers, 4. M/s Daruka Gems, 5. M/s G.K. Chudiwala, 6. M/s K.J.Gems.

During test-check of the assessment records of two Commercial Taxes Offices[18] for the period 2009-11, it was noticed (February 2012) that two brick kiln owners were allowed to avail benefits of the scheme though they did not fulfill the conditions of the Scheme. This resulted in non-levy of tax of ₹ 7.17 lakh and interest of ₹ 2.26 lakh (calculated upto March 2011) as detailed below:

(₹ in lakh)

Name of Circle/ dealer	Assessment Year (Month of assessment)	Nature of audit observations	Short realisation of tax and interest
'B'-Alwar (M/s Shyam Bricks)	2007-08 (March 2010) 2008-09 (November 2010)	The dealer did not opt for scheme within the scheduled time upto 07 January 2007 *i.e.* 30 days from the date of his registration. He opted for the scheme on 19 April 2007 and deposited ₹1.44 lakh as composition amount for the year 2007-08 and ₹1.58 lakh for the year 2008-09. The turnover of the dealer for the year 2007-08 and 2008-09 was ₹ 1.43 crore involving tax liability of ₹ 5.72 lakh.	2.70 0.92
'B'-Udaipur (M/s Designer Industries)	2008-09 (February 2011)	The dealer did not pay the tax at all till February 2012 but while finalising assessment (February 2011) composition of tax was incorrectly allowed. The turnover of the dealer for the year 2008-09 was ₹ 1.12 crore involving tax liability of ₹ 4.47 lakh.	4.47 1.34
Total			**9.43**

The cases were pointed out to the Department (March 2012) and reported to the Government (March 2012). In the case of M/s Designer Industries, the Government stated (July 2012) that a demand of ₹ 5.29 lakh has been raised. A Report on recovery has not been received (November 2012).

(iii) Petroleum dealers

As per paragraph 4.01 of the Composition Scheme for Registered dealers having retail outlets of petroleum companies, the dealers can opt for composition of tax and pay composition amount as per the rates prescribed in the notification. The dealers are required to pay the composition amount on the 7th day of the month immediately succeeding the month of the relevant quarter. Further, as per clause 8.8 of the Scheme if the dealer violates any of the conditions of the Scheme the dealer shall be liable for action under the provisions of the RVAT Act and rules made thereunder.

During test-check of the assessment records of Commercial Taxes Office Tonk, it was noticed (February 2012) that twelve petroleum dealers did not pay the composition amount of ₹ 0.51 lakh within the prescribed time during 2008-09. Therefore they were not entitled to the benefit of composition scheme. The turnover of the dealers was ₹ 47.97 lakh involving tax liability of ₹ 6 lakh. But while finalising the assessments the AA incorrectly allowed the composition of tax. This resulted in short realisation of ₹ 5.49 lakh besides interest of ₹ 1.65 lakh (calculated upto March 2011) was also payable.

[18] Circle: 'B' Alwar and 'B' Udaipur.

The omission was pointed out to the Department (November 2011) and reported to the Government (December 2011). The Government intimated (July 2012) that a demand of tax of ₹ 5.49 lakh and interest of ₹ 1.97 lakh was raised in May 2012. A Report on r ecovery has not been received (November 2012).

(iv) Registered Tent Dealers

As per the Composition Scheme for Registered Tent Dealers, dealers can opt for composition of tax and pay the composition amount as per the rates prescribed in the notification. As per clause 5.01 the dealers were required to opt for the scheme within thirty days from the date of publication of the notification/issuance of registration certificate/ commencement of the year, whichever is later. According to paragraph 4.01 the dealers were required to pay the composition amount on the 7th day of the month immediately succeeding the month of the relevant quarter. As per clause 8.7 of the Scheme if the dealer violates any of the conditions of the Scheme the dealer shall be liable for action under the provisions of the RVAT Act and rules made thereunder.

During test-check of the assessment records of Works Tax Circle, Jodhpur, it was noticed that three tent dealers were allowed to avail benefits of the scheme though they did not fulfill the conditions of the Scheme. This resulted in non-levy of tax of ₹ 37.85 lakh and interest of ₹ 14.70 lakh (calculated upto March 2011) as detailed in the following table;

(₹ in lakh)

Assessment year (Month of assessment)	Nature of audit observations	Short realisation of tax and Interest (Upto March 2011)
2008-09 (September 2010)	The dealer opted the Scheme after nine months of due date and deposited ₹ 0.04 lakh as composition amount for the year 2008-09. The turnover of the dealer for the year 2008-09 was ₹ 17.60 lakh involving a tax liability of ₹ 2.20 lakh.	2.16 0.65
2007-08 (March 2010) 2008-09 (September 2010)	The dealer had deposited the composition amount of ₹ 0.09 lakh on 05.03.2010 for the year 2007-08 two years after the specified period. For the year 2008-09 the dealer had applied after nine months of the due date and deposited composition amount of ₹ 0.09 lakh. The turnover of the dealer for the year 2007-08 and 2008-09 was ₹ 65.43 lakh involving a tax liability of ₹ 8.18 lakh.	8.00 2.84
2006-07/2007-08/ 2008-09 (February 2009, 2010 and August 2010)	The dealer had paid ₹ 0.48 lakh instead of the due composition amount of ₹ 0.59 lakh till assessment date. The turnover of the dealer for the years 2006-07, 2007-08 and 2008-09 was ₹ 225.46 lakh involving a tax liability of ₹ 28.17 lakh.	27.69 11.21

This omission was pointed out to the Department (February 2012) and reported to the Government (March and April 2012), their replies are awaited (November 2012).

Entry Tax

2.11.4 Non-levy/short levy of Entry Tax

As per notification dated 8 March 2006 issued under Section 3 (1) of the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999, entry tax at the specified rate is leviable on goods purchased from outside the State for consumption or use in business.

During test-check of records of seven circles,[19] it was noticed that eleven dealers purchased goods from outside the State without paying entry tax, for self consumption or use in business on which entry tax was leviable. But, AAs, while finalising the assessment of dealers, did not link these purchases with the purchases shown in the documents enclosed with VAT returns to levy entry tax. This resulted in non-levy/short levy of entry tax of ₹ 46.86 lakh and interest of ₹ 14.66 lakh.

After this being pointed out the Department raised demands involving ₹ 21.65 lakh in six cases and recovered ₹ 1.09 lakh in one case. A report on recovery and reply in the remaining cases has not been received (November 2012).

Entertainment Tax

2.11.5 Underassessment of Entertainment Tax

As per Section 4AAA of the Rajasthan Entertainment and Advertisements Tax Act, 1957 (REAT Act) proprietor of a direct to home (DTH) broadcasting services shall be liable to pay Entertainment Tax at the rate of 10 *per cent* of the subscription charges per subscriber w.e.f. 25 February 2008. Further, Section 9A of the REAT Act, provides that if the amount of tax is not paid within the prescribed time, the proprietor shall be liable to pay interest on such amount.

During test-check of records of Anti Evasion-I Circle, Rajasthan, Jaipur, it was noticed that a survey of business place of M/s Tata Sky Limited, Jaipur was conducted in February 2009 by a survey team of the Circle. However, as per the survey report and assessment order entertainment tax of ₹ 4.51 crore was payable but the AA Circle-I, Jaipur passed assessment order for ₹ 1.59 crore only. The reasons for raising less demand were not found on record. This omission resulted in short levy of tax of ₹ 3.99 crore including interest of ₹ 1.07 crore.

This was pointed out to the Department (November 2011) and reported to the Government (June 2012), their replies have not been received (November 2012).

[19] Circles: Special Alwar, J Jaipur, W.T. Jodhpur, C Jaipur, Special-I Bhiwadi, Special-II Jaipur and B- Udaipur

CHAPTER-III

TAXES ON MOTOR VEHICLES

CHAPTER-III: TAXES ON MOTOR VEHICLES

3.1 Tax administration

The Transport Department is responsible for registration of vehicles, grant of permits for vehicles and exercises control over vehicles plying in the State. The Department also issues licences to drivers, conductors and traders and fitness certificate of vehicles. Levy and collection of taxes, fees and penalties under the provisions of the Motor Vehicles Act, 1988, the Central Motor Vehicles Rules, 1989, the Rajasthan Motor Vehicles Taxation Act (RMVT Act), 1951, the Rajasthan Motor Vehicles Taxation Rules (RMVT Rules), 1951 and the Rajasthan Motor Vehicles Rules, 1990 are other responsibilities of the Department. Works relating to registration and fitness of vehicles, grant of licences, collection of taxes, fees, penalties *etc.* have been computerised in the Department.

The Transport Department is headed by the Transport Commissioner who is assisted by three Additional Commissioners and seven Deputy Commissioners at headquarters level. The entire State is divided into 11 regions, each headed by a Regional Transport Officers cum *ex-officio* Member, Regional Transport Authority. Besides, there are 37 vehicle registration-cum-taxation offices headed by District Transport Officers.

3.2 Trend of receipts

Receipts of taxes on motor vehicles during the years from 2007-08 to 2011-12 along with the total tax receipts of the State have been exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actual receipts of taxes on motor vehicles	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts to total tax receipts
2007-08	1,075.00	1,164.40	(+) 89.40	(+) 8.32	13,274.73	8.77
2008-09	1,200.00	1,213.56	(+) 13.56	(+) 1.13	14,943.75	8.12
2009-10	1,300.00	1,372.87	(+) 72.87	(+) 5.61	16,414.27	8.36
2010-11	1,500.00	1,612.25	(+) 112.25	(+) 7.48	20,758.12	7.77
2011-12	1725.00	1,927.05	(+) 202.05	(+) 11.71	25,377.05	7.59

Though in absolute terms, receipts of taxes on motor vehicles registered healthy growth every year yet the percentage of receipts of taxes on motor vehicles with respect to total tax receipts of the State was decreasing every year except the year 2009-10. In the year 2011-12, these receipts accounted for 7.59 *per cent* of the total tax receipts of the State.

3.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 amounted to ₹ 35.45 crore, of which ₹ 18.31 crore were outstanding for five or more years. The following table depicts the position of arrears of revenue as on 31 March 2012.

(₹ in crore)

Year of arrear	Total arrears as on 1.4.2011	Recovery during the year 2011-12	Recoveries outstanding as on 31.3.2012
Upto 2006-07	22.41	4.10	18.31
2007-08	5.36	1.55	3.81
2008-09	6.42	0.41	6.01
2009-10	5.28	1.87	3.41
2010-11	8.36	4.45	3.91
Total	**47.83**	**12.38**	**35.45**

It would be seen from the above that arrears of ₹ 18.31 crore are pending collection for more than five years and with the passage the chances of its recovery are bleak.

It is recommended that the Government may issue instructions to the Department to take appropriate action to recover the arrears within a fixed span of time.

3.4 Cost of collection

The gross collection of the revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the period from 2007-08 to 2011-12 along with the relevant All India average percentage of expenditure on collection to gross collection for the corresponding period are as follows:

Sl. No.	Year	Gross collection (₹ in crore)	Expenditure on collection of revenue (₹ in crore)	Percentage of expenditure on collection	All India average percentage of expenditure of the preceding year
1.	2007-08	1,164.40	17.44	1.50	2.47
2.	2008-09	1,213.56	29.25	2.41	2.58
3.	2009-10	1,372.87	27.04	1.97	2.93
4.	2010-11	1,612.25	30.82	1.91	3.07
5.	2011-12	1927.05	40.65	2.11	3.71

It was observed that the percentage of expenditure on collection of taxes on motor vehicles to gross collection was on lower side in comparison to All India average percentage. The Government may continue efforts for maintaining the position.

3.5 Impact of Audit Reports

Through the following Audit Reports, cases of non/short levy, non/short realisation, underassessment/loss of revenue, application of incorrect rate of tax, incorrect computation of tax *etc.* with revenue implication of ₹ 111.87 crore in 27 paragraphs were pointed out during the last five years. Of these, the Department/Government had fully/partly accepted 26 paragraphs involving ₹ 78.94 crore and had since partly recovered ₹ 30.67 crore in 22 paragraphs (as of September 2012) as shown in the following table:

(₹ in crore)

Year of Audit Reports	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number of paragraph	Amount
2006-07	6	7.23	6	5.92	6	2.44
2007-08	9	25.15	9	21.50	9	16.07
2008-09	3	47.75	2	19.98	1	0.79
2009-10	4	15.02	4	14.82	3	6.62
2010-11	5	16.72	5	16.72	3	4.75
Total	**27**	**111.87**	**26**	**78.94**	**22**	**30.67**

The Department has recovered only 39 per cent of the accepted amount.

The Government may issue instructions to the Department to recover the amount involved in the audit paragraphs on priority especially in those which have already been accepted by the Department.

3.6 Working of Internal Audit Wing

Internal Audit Wing is headed by the Financial Advisor and assisted by one Senior Accounts Officer and two Accounts Officers. Five internal audit parties are working in the Department each headed by Assistant Accounts Officer. The position of last five years of internal audit was as under:

Year	Pending units	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remained unaudited	Shortfall in *per cent*
2007-08	-	79	79	75	4	5
2008-09	4	79	83	67	16	19
2009-10	16	79	95	89	6	6
2010-11	6	43	49	49	-	-
2011-12	-	43	43	43	-	-

It was noticed that 12,509 paragraphs upto the year 2011-12 were outstanding at the end of 2011-12. Year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	1991-92 to 2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	Total
Paras	7,809	887	763	966	990	1,094	**12,509**

7,809 Paragraphs of internal audit reports were outstanding since 1991-92. Thus, the huge number of outstanding paragraphs indicate that the Department needs to pay more attention for settlement of the observation raised by the Internal Audit Wing

The Government may issue appropriate instructions to the Department for speedy disposal of outstanding observations raised by the Internal Audit Wing.

3.7 Results of Audit

On test-check of the records of 26 out of 44 units during 2011-12, audit noticed non/short recovery of tax and other irregularities involving ₹ 29.81 crore in 9,711 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/short recovery of tax, penalty, interest and compounding fee	6,539	18.96
2.	Non/short computation of motor vehicle tax/special road tax	2,734	10.64
3.	Other irregularities	438	0.21
Total		**9,711**	**29.81**

The Department accepted underassessment and other deficiencies of ₹ 17.64 crore in 5,189 cases, of which 444 cases involving ₹ 4.08 crore were pointed out in audit during the year 2011-12 and rest in the earlier years. During the year 2011-12, an amount of ₹ 4.94 crore was realised in 2,621 cases, of which ₹ 0.31 crore in 146 cases were pointed out in 2011-12 and rest ₹ 4.63 crore in 2,475 cases in the earlier years.

A few illustrative audit observations involving ₹ 15.88 crore are mentioned in the succeeding paragraphs.

3.8 Audit observations

During test- check of the records of the Transport Department, several cases of non-levy of tax, fee and penalty were noticed. Some of these omissions were also pointed out in earlier years. However, it is seen that similar irregularities persist year after year and remain undetected till the next audit is conducted. These cases are illustrative and are based on a test-check carried out by Audit. It was observed that no computerised system existed in the Department to monitor proper maintenance of tax ledgers of registered vehicles to ensure recovery of tax, fee and other charges. Besides, no return was prescribed to show the number of vehicles from which tax was due but not received. There is need to improve the internal control system including strengthening of internal audit and putting in place a monitoring mechanism by way of periodical returns to ensure collection of tax, fee, etc.

3.9 Non-compliance of provisions of the Act/Rules

The provisions of RMVT Act and Rules provide, inter alia, for:

(i) levy and collection of tax on all motor vehicles used or kept for use in the State at the rates prescribed by the State Government from time to time;

(ii) levy of lump sum tax on transport vehicles at the rates prescribed by the State Government from time to time; and

(iii) levy of surcharge on tax at the rate prescribed.

During test-check of the records, it was noticed that Departmental authorities did not observe some of the above provisions in cases mentioned in paragraphs 3.10.1 to 3.10.3.

3.10.1 Taxes on motor vehicles not realised

Under Section 4 and 4B of the RMVT Act, 1951 and rules made thereunder, motor vehicle tax and special road tax are to be levied and collected on all motor vehicles used or kept for use in the State at the rates prescribed by the State Government from time to time.

During test-check of the registration records, tax ledgers and general index registers of eight Regional Transport Offices (RTOs) and 16 District Transport Offices (DTOs) for the period 2009-10 and 2010-11, it was noticed (between May 2011 and March 2012) that motor vehicle tax and special road tax in respect of 5,052 vehicles for the period between April 2007 and March 2011 were either not paid or paid short by the owners of these vehicles. There was nothing on record to show that the vehicles were off the road or were transferred to any other District/State. This resulted in non/short realisation of tax amounting to ₹ 14.99 crore[1] besides the tax, penalty

[1] Non-realisation of ₹ 14.83 crore in 5,012 cases and short realisation of ₹ 0.16 crore in 40 cases.

is also leviable till the date of actual payment of tax as shown below:

Sl. No.	Category of vehicles	No. of vehicles	Period of tax	Amount (₹ in crore)	Name of offices
1.	Goods vehicles	1,747	April 2009 to March 2011	2.72	RTOs at Ajmer, Alwar, Bikaner, Chittorgarh, Jodhpur, Kota, Sikar and Udaipur; DTOs at Beawar, Bharatpur, Bhilwara, Bundi, Dholpur, Dungarpur, Hanumangarh, Jalore, Jhunjhunu, Rajsamand, Sirohi and Sriganganagar.
2.	Contract carriages (seating capacity upto 13 persons excluding driver)	1,699	April 2007 to March 2011	3.43	RTOs at Ajmer, Alwar, Bikaner, Chittorgarh, Jodhpur, Kota, Sikar and Udaipur; DTOs at Banswara, Bharatpur, Bhilwara, Bundi, Churu, Dholpur, Dungarpur, Hanumangarh, Jaipur (contract carriage), Jalore, Jhunjhunu, Rajsamand, Sirohi and Sriganganagar.
3.	Contract carriages (seating capacity more than 13 persons excluding driver)	221	April 2008 to March 2011	3.28	RTOs at Bikaner, Chittorgarh, Jodhpur and Udaipur; DTOs at Jaipur (contract carriage), Jalore, Jhunjhunu, Rajsamand and Sriganganagar.
4.	Stage carriages	284	April 2009 to March 2011	1.75	RTOs at Alwar, Jodhpur, Sikar and Udaipur; DTOs at Jaipur (stage carriage.), Jhunjhunu and Sriganganagar.
5.	Articulated goods vehicles	463	April 2009 to March 2011	1.23	RTOs at Ajmer, Bikaner, Chittorgarh, Jodhpur and Udaipur; DTOs at Beawar, Bhilwara, Jhunjhunu and Rajsamand.
6.	Passenger vehicles kept without permits	112	April 2009 to March 2011	1.15	RTOs at Bikaner and Jodhpur; DTOs at Jaipur (stage carriage.), Jhunjhunu and Sriganganagar.
7.	Dumpers/ tippers	472	April 2009 to March 2011	1.19	RTOs at Ajmer, Alwar, Bikaner, Jodhpur, Kota and Udaipur; DTOs at Bharatpur, Bhilwara, Jalore, Jhunjhunu, Rajsamand, Sirohi and Sriganganagar.
8.	Private service vehicles	54	April 2007 to March 2011	0.24	DTO Jaipur (contract carriage).
Total		**5,052**	**14.99**		

After the matter was pointed out (between July 2011 and April 2012), the Government stated (October 2012) that in respect of 1,110 vehicles, ₹ 2.50 crore had been recovered and in respect of 173 vehicles, ₹ 43.91 lakh were not recoverable due to issue of no objection certificates to vehicles for other States, cancellation of registration certificates, change of registration, deposit of lump sum tax *etc*. However, the records produced at the time of audit did not reflect the stated position. The report on action taken in the remaining cases is awaited (November 2012).

3.10.2 Non/short realisation of outstanding instalment of lump sum tax

Under Section 4-C of the RMVT Act, 1951, a lump sum tax on transport vehicles was to be levied at the rates prescribed by notification from time to time by the State Government. The lump sum tax could be paid in full or in three equal instalments within a period of one year.

During test-check of records of eight Regional Transport Offices/District Transport Offices[2] for the years 2009-10 and 2010-11, it was noticed (between August 2011 and March 2012) that in respect of 172 transport vehicles, option for lump sum payment of tax in three equal installments was given but either the last two instalments or the third instalment was not paid or paid short by owners of these vehicles. The taxation officers also did not initiate any action to realise the amount of tax due. This resulted in non/short realisation of lump sum tax amounting to ₹ 66.92 lakh.

After it was pointed out (between October 2011 and April 2012), the Government stated (October 2012) that in respect of 61 vehicles, ₹ 27.14 lakh had been recovered. The report on action taken in the remaining cases is awaited (November 2012).

3.10.3 Short levy of special road tax in respect of stage carriages of Rajasthan State Road Transport Corporation

As per notification no. F 6/96/Trans/tax/HQ/III/7D dated 01.8.2007 issued under Section 4B of the Rajasthan Motor Vehicles Taxation Act, 1951, the special road tax on stage carriages owned by a fleet owner shall be payable at the rate of 2.05 *per cent* of the cost of chassis of entire fleet of vehicles (other than those plying exclusively within the municipal limits) used or kept for use as stage carriages in the fleet. Further, the cost of chassis for computation of tax shall be determined as per provisions of rule 42 of the Rajasthan Motor Vehicles Taxation Rules, 1951.

During test-check of the records of Regional Transport Office, Jaipur for the period 2010-11, it was noticed (January 2012) that special road tax in respect of stage carriages owned by Rajasthan State Road Transport Corporation (a fleet owner) was levied short due to undervaluation of the cost of chassis for the purpose of computation of special road tax. This resulted in short levy of special road tax amounting to ₹ 21.98 lakh.

The omission was pointed out to the Department and reported to the Government (February 2012); their replies were awaited (November 2012).

[2] RTO Bikaner, Jodhpur, Sikar and Udaipur; DTO Bansawara, Bhilwara, Jalore and Rajsamand.

3.11 Issue of driving license by the Transport Department

3.11.1 Introduction

As per Section 3 of the Motor Vehicles Act, 1988 (MV Act), no person can drive a motor vehicle in any public place unless he holds a valid driving licence issued to him by the competent authority, authorising him to drive a vehicle of that particular category. Two kinds of driving licences are issued: learner's licence (valid only for six months) and driving licence. Driving licence can be obtained only after the expiry of one month from the date of issuance of the learner's licence. The Transport Department (Department) has been entrusted with the work relating to issue of licenses to the drivers, conductors *etc.* The Licensing Authority is vested with the District Transport Officer (DTO) and Motor Vehicle Inspector/Motor Vehicle Sub-Inspector (MVI/MVSI) in the State.

3.11.2 Discrepancies noticed in issue of License

Rules 10 and 14 of the Central Motor Vehicle (CMV) Rules stipulate that an applicant is required to apply in Form 2 and Form 4 for learner's license and driving license respectively. The correctness of the form is required to be checked by the concerned license issuing authorities and a form for computerised driving licenses is required to be signed by the concerned license issuing authorities.

Audit selected 1,100 application forms received for issue of licenses for detailed scrutiny. Audit noticed 469 discrepancies in the forms submitted by the applicants and checked by the licensing authorities. These were incomplete, without mandatory information and even without signatures of candidates. Thus provisions of the Act and Rules violated are detailed in the following table:

No of offices	Nature of observation	No. of cases
(1)	(2)	(3)
Discrepancies noticed in learner's licenses:		
Ten offices[3]	As per Rule 4 of CMV Rules every applicant, for the issue of a driving license, is required to provide evidence of his address and age. Audit noticed that date of birth shown in six application forms and address shown in seven application forms did not match with the documents attached as evidence and in six application forms date of birth was not mentioned.	19
Six offices[4]	"PAN Card" was accepted as an evidence of date of birth, though the PAN card was not prescribed as evidence in the Rule 4 of CMV Rules.	19
Ten offices[5]	Class of license applied for, provided in the application form was not marked in 32 application forms.	32

[3] RTO Sikar, DTO-Bundi, Sub-office Reengus, Pipad City, Jodhpur, Udaipur, DTO Sub-office Phalodi, Chomu, Jaipur and Salumber.
[4] RTO Udaipur, DTO Bundi and Sub-office Gangapur, Salumber, Phalodi and Peepad City.
[5] RTO Sikar, Udaipur, Jaipur DTO Sawai Madhopur and Sub-office Behror, Reengus, Peepad City, Gangapur, Dudu and Chomu.

(1)	(2)	(3)
Seven offices[6]	Signatures of applicants though required to be made at the end of the form were not found in 28 application forms.	28
Two Sub-offices	Documents attached with the forms though required to be attested under Rule 4 of CMV Rules were not found attested in three cases in Peepad City and Gangapur City.	3
RTO, Udaipur	Consent of parents/guardian in the case of application by minor required to be obtained under Rule 12 of CMV Rules was not found in licenses issued.	3
Three Sub offices[7] and four DTOs/ office[8]	Self declaration form (Form 1) regarding physical fitness required to be attached under Rule 5 of CMV Rules was not found attached with 160 application forms.	160
Seven offices[9]	Self declaration form (Form 1) regarding physical fitness required to be attached under Rule 5 were not signed by the applicants in 30 cases.	30
Total		**294**
Discrepancies noticed in International Driving Permit:		
Two offices	Medical certificates in Form 1A were not produced for the International Driving Permit in five cases in RTO, Udaipur and Sub office Peepad city as required under Rule 5 of CMV Rules. Permit was issued on the basis of the application forms (Form 4A) only.	**5**
Total		**5**
Discrepancies noticed in Driving licenses:		
10 offices[10]	Form 4 (application form) provides for recording the result of the driving test i.e. Pass or Fail, it was not mentioned in 113 cases.	113
Four offices[11]	Registration number of the applicant's vehicle was required to be recorded in the Form 4 (application form) as per the Departments' directions dated 26-2-2010. It was not recorded in 17 cases.	17
Total		**130**
Discrepancies noticed in Renewal Driving licenses:		
Four offices[12]	Medical certificate in form 1 A was not found enclosed in 17 cases of transport vehicles and 18 cases in non-transport vehicles as required under Rule 5 of CMV Rules.	35
Three offices[13]	In case of application for renewal after the expiry of five years, evidence of taking fresh test for competency was not found in five cases as required under Rule 18 of CMV Rules.	5
Total		**40**
Grand Total		**469**

[6] RTO Jodhpur, Jaipur DTO Bundi Sub-office Reengus, Phalodi, Dudu and Chomu.
[7] Sub-office Behror, Gangapur and Salumber.
[8] RTO Sikar, Udaipur DTO Bundi and Sub-office Reengus.
[9] RTO Sikar, Jodhpur, Udaipur, Jaipur DTO Sawai Madhopur and Sub-office Phalodi and Chomu.
[10] RTO Alwar, Sikar, Udaipur, Jodhpur, DTO Sawai Madhopur, Bundi and Sub-office Reengus, Salumber and Dudu.
[11] RTO Alwar and sub-offices Reengus, Salumber and Dudu.
[12] RTO Alwar, Jodhpur, Udaipur and Jaipur.
[13] RTO Alwar, Jodhpur and Udaipur.

In addition to above, it was noticed that the Form 4 provided for recording the reasons for declaring an applicant as 'Fail' but it was not being recorded in the application form, besides the name and designation of testing authority was also not found recorded in any application form.

The discrepancies indicate that the License issuing authorities are not scrutinising the application forms correctly. Since driving license is an important document and is also treated as evidence and identification of the individual, it is recommended.

The Department may ensure that all application forms are filled in correctly and are duly checked along with prescribed documents before issue of driving license.

3.11.3 Discrepancies in Preliminary Test for Learner's License

Rule 11 of the CMV Rules, 1989 provides for preliminary test for learner's licence for assessing adequate knowledge and understanding of the applicant in the matters like traffic signs, traffic signals and the rules of the road regulation, duties of driver *etc*.

3.11.3.1 The Department was conducting the preliminary test for issue of learner's licence through computer touch screens to assess the knowledge and understanding of the applicant regarding traffic rules. The touch screen machines were working on two different softwares *i.e.* "in-house software" developed by the Department and the *SARATHI*[14] software, developed and provided by NIC.

It was found that the software SARATHI was in operation in only nine out of 37 RTOs//DTOs as on 31 March 2012. While in the remaining 28 offices software "In house" developed by the Department was in operation.

The software "In house" did not provide for exemption to the existing license holder from "learning license test" while applying for a different class of license. In addition the touch screen machines were not installed in sub-offices (working under RTOs/DTOs.) as a result, the preliminary test was taken manually.

3.11.3.2 As per office order dated 02.02.2009, the preliminary test for issue of learner's license was to be taken only on computerised touch screen machine. However, the touch screen machines were not installed in sub-offices. As a result, the preliminary test was taken manually. Further in case of manual preliminary test, as per the office order dated 30.06.1995 at least 10 questions were to be asked to the applicant. The application forms along with comments of testing authority were to be kept in safe custody.

However, it was found that no record regarding preliminary test conducted by MVI/MVSI was maintained in all the cases test checked in seven sub-offices[15]. In sub-office, Behror only three questions were asked for issue of learner's licence. Signatures of the concerned MVI/MVSI were not found in

[14] The IT audit of *SARATHI* was conducted in the year 2011. The findings were reported in the CAG Audit Report (Revenue Receipts) for the year 2011.

[15] Sub-office Reengus, Gangapur City, Salumber, Phalodi, Peepad City, Dudu and Chomu

25 cases in three offices[16]. Further, the result of the test was not found recorded in 81 cases in seven offices[17].

3.11.3.3 Instruction dated 21.09.2009 issued by the Department provided compulsory "Colour Blindness Test" of all applicants. It was found that "Colour Blindness Test" was not being conducted either manually or on touch screen machines.

The Department may consider implementing '*SARATHI*' Software in all offices for issuing learner's licenses and install touch screen machines in all sub offices.

3.11.4 Record of violation in the data base

The MV Act, 1988 empowers the Licensing authorities to disqualify a person from holding a driving license or revoke such license if he commits the violation specified in the Act. Five circles have been provided on the back side of the license (Form 7) for each violation.

The Government issued instructions (04.05.2009) for recording the number of violation done by a licensee by providing five circles in the license (Form 7) for punching, for each violation committed. The order provided that the driving license could be cancelled, if found to be punched for five times.

It was noticed that there was no provision in the software "*SARATHI*" and "In house" to maintain information in the database of the punched licenses. Thus, at the time of renewals/ issue of duplicate license the number of violation done by the licensees could not be ascertained. No registers were maintained for watching the violations manually.

3.11.5 Motor Driving School

The Department authorised 56 motor driving schools to issue learner's licence to the applicants in selected offices. The licensing authorities were directed by the Commissioner (9.04.2007) to conduct surprise inspections of these schools and submit monthly reports.

Our scrutiny of records relating to the motor driving schools authorised for issue of learner's licence in the selected offices revealed that no surprise inspection of these schools was conducted by the Department.

3.11.6 Lump sum fees for Learner's and Driving license

As per Rule 32 of the CMV Rules 1989, separate fees of ₹ 30 for learner's license, ₹ 200 for driving license and ₹ 50 for driving test are to be charged.

The Commissioner of Transport directed (27.06.2000) for collection of entire amount of fee i.e. ₹ 280 in lump sum. This was in contravention to the Rules. It was further noticed that the *SARATHI* software provided for separate fee for learners and driving license but such facility was not available in "In house" software which had provision for collection of fee in lump sum.

[16] Sub-office Reengus, Phalodi and Peepad City.
[17] Sub-office Reengus, Gangapur City, Salumber, Phalodi, Peepad City, Dudu and Chomu.

After the above observations were pointed out (August 2012), the Department while accepting the audit observations stated (October 2012) that necessary instructions are being issued to all RTOs/DTOs to rectify the procedural deficiencies.

The Department may charge separate fees for learner's and driving license and renewal fees as per the CMV Rules.

3.11.7 Lack of infrastructure in the Department

Audit noticed that adequate basic amenities and infrastructure such as drinking water, shed, toilets and sitting arrangements for the applicants provided by the Department was very poor. The deficiencies noticed are illustrated in the following paragraphs.

3.11.7.1 No place was fixed for the Testing Authority for watching the trial of driving of vehicles except at RTOs, Jaipur and Alwar where a temporary shed was erected which was close to the track. The Department stated that providing of infrastructural facility was under the consideration of the Department.

3.11.7.2 The Department established 'May I help you' counters, in order to facilitate the applicants of driving licensee in each DTO/RTO. It was noticed that no full time regular employee was posted on these counters in any of the selected offices. As a result, the applicants did not get the required assistance from the counters.

3.11.7.3 It was also noticed that no display boards were installed for easy flow of information regarding the procedure and formalities to be completed by the applicant.

3.11.7.4 Only three[18] out of the seven selected RTOs/DTOs had halls for the applicants of learner's licence including an air conditioned hall in RTO, Jaipur while at other places no accommodation was provided. Basic amenities such as drinking water, toilet, shed *etc*. were not available in two of the selected sub offices[19].

3.11.7.5 It was further observed that the Medical Form and Form 4 (attached with application form, for giving option for issue of a computerised license) issued with the application booklet on "Safe Driving" were in English though the State is predominantly Hindi speaking. Hence, it was difficult for applicants to understand and follow the instructions given in the form.

The Department may consider:

Providing software in the System for recording the violations committed by licensees, conducting surprise inspection of the motor driving schools, and

Providing adequate basic amenities, and infrastructure such as drinking water, shed toilets and sitting arrangements for the applicants and print bilingual medical form and form 4 i.e. in English and Hindi language.

[18] RTO Jaipur, RTO Udaipur and DTO Sawai Madhopur
[19] Sub-office Reengus, Gangapur City.

CHAPTER-IV
LAND REVENUE

CHAPTER-IV: LAND REVENUE

4.1 Tax administration

Assessment and collection of land revenue are governed under the Rajasthan Land Revenue Act, 1956 and rules made thereunder. Land revenue mainly comprises rent on land, lease rent, premium, conversion charges and receipts from sales of Government land *etc*.

The Revenue Department functions as the Administrative Department of the Government. The overall control of revenue related judicial matters along with supervision and monitoring over revenue officers vests with the Board of Revenue (BOR). The BOR is assisted by 33 Collectors at the district level, 242 Sub-Divisional Officers (SDOs) at the sub-division level and 244 *Tehsildars* at the t*ehsil* level, in all matters relating to assessment and collection of land revenue. The BOR is also the State level implementing authority for computerisation of land records in Rajasthan.

4.2 Trend of revenue

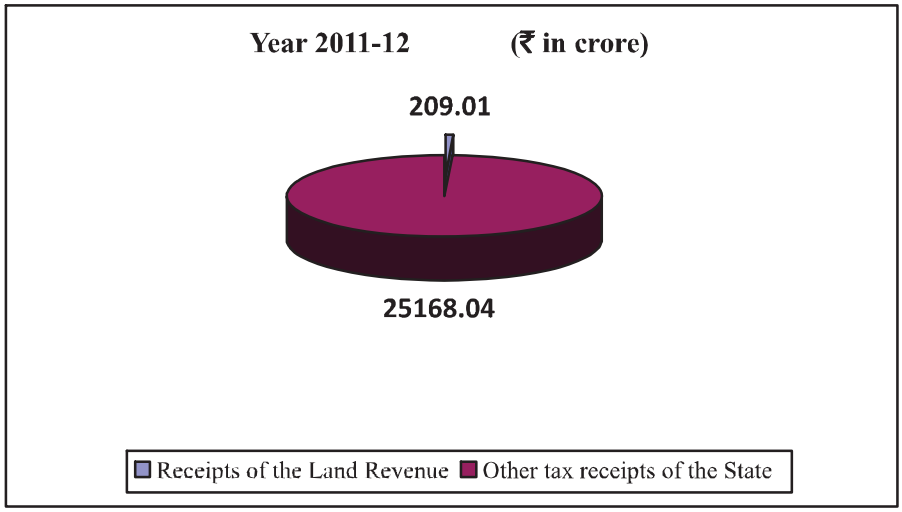
The budget estimates and actual revenue realised by the Department during the period 2007-08 to 2011-12 were as under:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts to total tax receipts
2007-08	122.06	155.29	(+) 33.23	(+) 27.22	13,274.73	1.70
2008-09	145.01	162.52	(+) 17.51	(+) 12.08	14,943.75	1.09
2009-10	160.16	147.66	(-) 12.50	(-) 7.80	16,414.27	0.90
2010-11	185.06	222.17	(+) 37.11	(+) 20.05	20,758.12	1.07
2011-12	196.05	209.01	(+) 12.96	(+) 6.61	25,377.05	0.82

The table above indicates that budget preparation activity was not undertaken with due diligence and estimates were not supported with realistic data. The variation between the BEs and actual collection ranged between (-) 7.80 *per cent* (2009-10) and (+) 27.22 *per cent* (2007-08). Fall of revenue during 2009-10 was mainly attributed to fewer receipts on account of conversion charges from the Urban Development Department (UDD) and sale of land. Audit noticed increase in revenue collection during 2010-11, which was due to receipts from sale of Government assets and waste land.

A pie chart showing share of actual land revenue receipts and other receipts in total tax receipts for the year 2011-12 is given below:



The receipts from Land Revenue consisted 0.82 *per cent* of the total tax receipts of the State during the year 2011-12, as against 1.07 *per cent* during 2010-11. Thus, there has been an erratic trend in collection of revenue under the Land Revenue though the total tax receipts of the State show continuously an increasing trend.

4.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 amounted to ₹ 54.54 crore, of which ₹ 13.44 crore constituting about 24.64 *per cent* are more than five years old. The following table depicts the posi tion of arrears of revenue as on 31 March 2012.

(₹ in crore)

Year of arrear	Total arrears as on 1.4.2011	Recovery during the year 2011-12	Recoveries outstanding as on 31.3.2012
Upto 2006-07	52.05	38.61	13.44
2007-08	2.81	0.68	2.13
2008-09	8.40	3.10	5.30
2009-10	11.95	6.92	5.03
2010-11	36.03	7.39	28.64
Total	**111.24**	**56.70**	**54.54**

Chances of recovery of ₹ 13.44 crore which were outstanding for five or more years are bleak.

4.4 Impact of Audit Reports

During the last five years upto 2010-11, Audit through its reports in 13 paragraphs had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemptions, application of incorrect rate of tax, incorrect computation *etc*, with revenue implication of ₹ 764.33 crore. Of these, the Department had accepted audit observations in 10 paragraphs involving ₹ 629.29 crore and had since recovered ₹ 88.11 crore (September 2012). The details are shown in the following table:

(₹ in crore)

Year of audit	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number of paragraph	Amount
2006-07	1	22.14	1	22.14	-	-
2007-08	5	260.68	4	196.05	3	76.64
2008-09	1	1.13	1	1.13	1	1.13
2009-10	3	180.01	3	117.55	2	9.62
2010-11	3	300.37	1	292.42	1	0.72
Total	**13**	**764.33**	**10**	**629.29**	**7**	**88.11**

Thus the Department has recovered only 14 *per cent* of the amount in respect of the paragraphs already accepted by it. The Department may make efforts for recovery of the amount pointed out in the audit reports particularly in those cases where the amount have already been accepted by them.

4.5 Working of Internal Audit Wing

The Financial Adviser is the head of the Internal Audit Wing. There were 15 internal audit parties, each consisting of three members, which conducted audit of offices on annual basis. The position of number of units, number of units planned for audit, number of units actually audited and number of units remained unaudited during the period from 2007-08 to 2011-12 was as under:

Year	Pending units	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remained unaudited	Shortfall in *per cent*
2007-08	81	567	648	583	65	10
2008-09	65	570	635	501	134	21
2009-10	134	570	704	532	172	24
2010-11	172	570	742	707	35	5
2011-12	35	624	659	589	70	11

The Department stated that the arrear in audit was due to addition of 54 new units in the list of auditable institutions, vacant posts, leave taken by audit party members *etc.*

It was noticed that 18,687 paragraphs for the year upto 2011-12 were outstanding at the end of 2011-12. Y ear-wise break up of outstanding paragraphs of internal audit wing is as under:

Year	Upto 2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	Total
Paras	9,004	998	1,087	1,293	2,049	4,256	**18,687**

9,004 paragraphs of internal audit wing were outstanding upto 2006-07 and with passage of time chances of recovery in old cases become remote.

The Government needs to make more efforts for expeditious settlement of outstanding observations raised by Internal Audit Wing.

4.6 Results of Audit

During test check of the records of 29 units of Land Revenue Department conducted during the year 2011-12, Audit noticed non-recovery and loss of revenue *etc.* amounting to ₹ 1,314.69 crore in 4,784 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Short/non-recovery of cost of land, premium and rent from Central/State Government Departments/ Undertakings	450	1,017.52
2.	Short/non-recovery of conversion charges from '*Khatedars*'	1,085	53.62
3.	Non-disposal of *Nazul* properties	1,571	117.63
4.	Non-disposal of recovery cases received from various Departments under Sections 256 and 257 of Land Revenue Act.	1,583	106.38
5.	Other irregularities	95	19.54
Total		**4,784**	**1,314.69**

The Department accepted audit observations of ₹ 1,032.78 crore in 3,878 cases, of which 1,261 cases involving ₹ 986.51 crore pertained to audit conducted during the year 2011-12 and the others related to earlier years. The Department recovered ₹ 10.29 crore in 544 cases during the year 2011-12, of which 156 cases involving ₹ 2.45 crore related to the year 2011-12 and the others related to the earlier years.

In one case the Department recovered entire amount of ₹ 1.99 crore after the draft paragraph issued by us to the Department and the Government.

A few illustrative cases involving ₹ 21.83 crore are mentioned in the following paragraphs.

4.7 Audit observations

During test-check of records of the Land Revenue Department, Audit observed non/short levy/recovery of revenue as mentioned in the succeeding paragraphs of this chapter. In particular, it was noticed that some Departments were in possession of Government land without recovery of cost of land from them as per Government directives. It was seen that the Government share at the rate of five per cent of its proceedings from sale of Government land was not timely remitted into Government account by the Urban Improvement Trusts (UIT) and there was no provision for charging interest on delayed deposit of Government share. It was also observed that charges for conversion of land use from agriculture to non-agricultural purposes were short/not levied from the applicants. These cases are illustrative only as are based on a test-check. There is a need for the Government to improve the internal control system including strengthening of internal audit in order to avoid recurrence of such cases.

4.8 Non-compliance of provisions of Rules/Circulars

The Rajasthan Land Revenue Act, 1956 and rules made thereunder/ notifications of the Government provide for land allotment/land use conversion under the provisions of:

1. *Rajasthan Land Revenue (Conversion of Agricultural Land for Non-agricultural purposes in Rural Areas) Rules, 2007;*
2. *Rajasthan Improvement Trust (Disposal of Urban Land) Rules, 1974 ;*
3. *Circular dated 2 March 1987 issued by Revenue Department, Government of Rajasthan;*
4. *Tourism Unit Policy, 2007; and*
5. *Rajasthan Industrial Areas Allotment Rules, 1959.*

During test check of the records, it was noticed that Departmental authorities did not observe policies/rules ibid which resulted in non-realisation of revenue as mentioned in the succeeding paragraphs.

4.9 Non/short recovery of cost of land

4.9.1 Non-observance of Rajasthan Tourism Unit Policy 2007 in allotment of Government land

The State Government approved (November 2007) the Rajasthan Tourism Unit Policy 2007 for all types of hotels, heritage hotels and other tourism units such as camping sites, holiday resorts and restaurants *etc*. The State Government was to allot available land as per procedure mentioned in para 1 (a) of the Policy (other than star category hotels) at special reserve price *i.e.* 50 *per cent* of the commercial reserve price of the land. The special reserve price was the base price for disposal of identified and reserve lands through a process of competitive bidding.

The Policy further provides that the concerned Local Body/Panchayat/ District Collector should take regular action for the disposal of available land through public advertisement and competitive bidding. It was also provided in the

Policy that the concerned Department would accordingly amend respective rules, sub rules and notifications at the Department level so that further approval of cabinet would not be required for establishment and development of all types of units, including hotels. The Urban Development Department (UDD) accordingly amended (December 2007) its rules.

The UDD amended (24.12.2007) its rules in accordance with the Tourism Unit Policy 2007. As per the new rules, the land rate for tourism units in the villages situated on the periphery of the Municipality was chargeable at 50 *per cent* of commercial DLC rates.

(i) During test check of records of the Collector, Rajsamand (January 2012) it was noticed that the Tourism Department requested for allotment of Government land to M/s Green Touch Developers Pvt. Ltd, Ghaziabad and M/s Noida Health Care Training and Placement Pvt. Ltd, Vasant Vihar, New Delhi for establishment of tourism units. Government land measuring 7,39,432 square feet at villages Upali Odan and Nichali Odan was identified by the Collector for establishment of tourism units and was allotted (January 2011) to these applicants at agricultural DLC rates as per Rule 3 A of the Rajasthan Land Revenue (Industrial Areas Allotment) Rules, 1959 for ₹ 56.42 lakh.

The decision of the Collector, Rajsamand to allot the Government land at agricultural DLC rates was incorrect as the land was located at periphery of the Municipality and therefore should have been allotted as per the amended Rules of 2007. The cost of the land was ₹ 5.05 crore instead of ₹ 0.56 crore. Therefore the incorrect decision to allot land as per rule 3 A of the Rajasthan Land Revenue (Industrial Areas Allotment) Rules, 1959 resulted in loss of ₹ 4.49 crore to the Government.

The matter was brought to the notice of the Department and the Government in May 2012, their reply has not been received (November 2012).

It was noticed that the Revenue Department had not amended Rajasthan Industrial Areas Allotment Rules, 1959 for allotment of land for tourism units though the Government had approved the Tourism Unit Policy in 2007 and had directed the concerned departments to amend their rules accordingly.

(ii) During test check of the records of Collector, Udaipur it was noticed that Government land measuring 3.71 hectare was allotted (August 2010) to Fairisal Developers International Private Limited, Bhuwana, District Udaipur for establishment of tourism unit at *khasra* no. 245, 166 and 827/246 at village Nagda, Tehsil Girva, District Udaipur. The cost of land was charged as per rule 3 A of the Rajasthan Industrial Areas Allotment Rules, 1959. Accordingly ₹ 18.89 lakh was paid by the applicant.

The Department did not amend its rules as per the Policy *ibid* nor did it follow the process based on competitive bidding at special price i.e. 50 *per cent* of the commercial reserve price of the land. Thus, not amending the rules resulted in loss of revenue of ₹ 1.13 crore[1].

[1] (₹ 1.32 crore – ₹ 0.19 crore)

The matter was brought to the notice of the Department (February 2012) and reported to the Government (June 2012); their replies were awaited (November 2012).

The Department may amend its rules in line with the Tourism Unit Policy, 2007 to ensure competitive bidding and more revenue to the state exchequer.

4.9.2 Non-recovery of cost of land

(i) During test check of records in the office of the Collector, Jaisalmer, it was noticed that Wing Commander Air Force Station, Jaisalmer intimated the Collector in September 2006 that during physical survey[2] conducted in 2003, land admeasuring 349.32 *bighas* was found in their fencing area in excess of allotted land. He requested for its regularisation. The Collector ordered the concerned Tehsidar in December 2006 for submission of a complete report within one week and follow the prescribed check list, furnish the survey report in the prescribe proforma and the necessary certificates. However, no survey was conducted till it was pointed out by audit in September 2010.

After this was pointed out, the Department completed the survey in January 2012 and found excess Government land of 1358.40 *bighas* in the possession of the Air Force as detailed in the following table:

(₹ in crore)

Name of the village	As reported by the Air Force in 2003	As per survey report of 2012	Cost of the land
Jaisalmer	204.12	1198.00	485.90
Moolsagar	64.07	73.75	0.31
Jiyai	81.13	86.65	0.24
Total	**349.32**	**1358.40**	**486.45**

The reason for the difference between the two surveys was not found on record. The Wing Commander, Air Force Station, Jaisalmer repeatedly requested for regularisation of the land found in excess but it was done after a lapse of six years. This resulted in non realisation of the value of the land ₹ 486.45 crore[3].

After this was pointed out (September 2010 and May 2012), the *Tehsildar* stated that action was being taken for allotment of the land and recovery will be effected.

The matter was brought to the notice of the Government (June 2012); its reply was awaited (November 2012).

(ii) Test check of the records of Collector, Udaipur revealed (January 2012) that the Government land admeasuring 1.10 *bighas* (*khasra* No. 409 and 410 at village Bhamrasia, Tehsil Vallabhanagar, District Udaipur) was in possession

[2] Conducted by his office and the collectors office.

[3] 1198 *bigha* land situated in municipal peripheral belt nearby Mayajlar road and Jainarayan Vyas Colony @ residential rate = ₹ 485.90 crore.
73.75 and 86.65 *bigha* land at village Moolsagar and Jiyai @ agricultural rate = ₹ 0.55 crore.

of the Airport Authority of India[4]. Additional District Collector, Udaipur, on the basis of a request received from the Airport Authority of India, directed (December 2010) the Sub Divisional Officer, Vallabhnagar to submit a proposal for allotment of land to the Government alongwith his recommendations, furnish the check list and the relevant details to the Government. The proposal was sent and approved by the Government in July 2011. Though the land is being used by the Authority, its cost of ₹ 1.13 crore has not been recovered by the Department.

After being pointed out the Department replied (January 2012) that letter has been written to AAI to deposit the cost of land and that allotment letter has not been issued.

The matter is brought to the notice of the Government (February 2012); their reply has not been received (November 2012).

As per rule 3 A of Rajasthan Land Revenue (Industrial Areas Allotment) Rules, 1959, allotment of Government land in industrial area to the offices of the Central Government will be charged according to prevailing market price.

(iii) During test check of records of the Collectors, Jodhpur and Kota, it was noticed that Government land admeasuring 225 *bighas* in Village Rampura Bhatiyan and Nimana was allotted to the Spices Board, Ministry of Commerce and Industries in June 2009 and August 2010 to set up two Spice Parks. However, the cost of ₹ 3.19 crore though recoverable was not recovered.

After this was pointed out (March and July 2011) the Department intimated (October 2012) that recovery of ₹ 1.31 crore in case of Collector, Kota was under progress. In case of Colle ctor, Jodhpur, reply was awaited (November 2012).

The matter was reported to the Government (July 2012); its reply was awaited (November 2012).

4.9.3 Short recovery of cost of land

As per rule 3 A of Rajasthan Land Revenue (Industrial Areas Allotment) Rules, 1959, allotment of Government land in industrial area will be charged according to prevailing market price of the same class of agriculture land in the nearby area.
DLC provided special rate for the category of land located in villages situated on National Highway, as per footnote of the statement of DLC rates which were effective from 25.08.2009.

During test check of records of Collector, Kota it was noticed that Government land measuring 6 *bigha* (Plot No- 20 B) at village Bhimpura, District Kota was allotted to M/s Jagdamba Phosphate, Kota (firm) for establishment of an industry. On scrutiny of DLC rates of Kota, it was noticed that the village Bhimpura was situated on National Highway. As per the DLC

[4] The date of actual possession was not made available/ found on record.

rates, the land was to be valued at special rate of ₹ 6.25 lakh per *bigha*. However, Collector, Kota charged the cost of land @ ₹ 5.20 lakh per *bigha* in 2010 considering DLC rate of village Bhimpura. This resulted in short recovery of cost of land amounting to ₹ 6.30 lakh.

After this was pointed out (July 2011), the Additional Collector, Kota informed (August 2011) that notice has been issued to M/s Jagdamba Phosphate, Kota for depositing the balance amount of ₹ 6.30 lakh. A report on the recovery made has not been received (November 2012).

The matter was reported to the Government (May 2012); reply was awaited (November 2012).

4.9.4 Non-recovery of cost of land allotted to Rajasthan Cooperative Dairy Federation Ltd.

The Government notified (13.10.2005) that land allotted to specified Department/ Corporation/Institutions will be charged at the premium equivalent to the prevailing market price of the same class of agricultural land in the neighborhood as decided by the Collector in the DLC.

During test check of records of Collector Jodhpur, it was noticed that the Government land measuring 250 *bigha* at *khasra* No. 1/1 village Narva Khichenya, District Jodhpur was allotted (April 2006) to Animal Husbandry Department (AHD) for establishment of Germ Plasma Centre. The Principal Secretary, AHD ordered (May 2008) that the Rajasthan Cooperative Dairy Federation Ltd (RCDF) will operate the Germ Plasma Centre, hence the land allotted to AHD may be transferred to RCDF. The Collector, Jodhpur transferred (July 2008) the land to the RCDF without charging cost of land. Since exemption was not granted to RCDF, the cost of land amounting to ₹ 45 lakh though recoverable as per the notification dated 13 October 2005, was not recovered by the Collector. This resulted in non-recovery of cost of land amounting to ₹ 45 lakh.

The matter was brought to the notice of the Department (March 2012) and reported to the Government (May 2012); their replies were awaited (November 2012).

4.10 Short recovery of conversion charges

As per rule 7(vii) of Rajasthan Land Revenue (Conversion of Agricultural Land for non-agricultural purposes in Rural Areas) Rules 2007, premium for conversion of agricultural land for institutional purpose is to be charged at ₹ 5 per square metre or 10 *per cent* of District Level Committee (DLC) rate of agricultural land, whichever is higher.

(i) During test check of records of the Collector, Ajmer (Collector) it was found that the 121 *bigha* and 12 *biswansi* agricultural land (*Khasara* No. 537 and 538/1) at village Bandar Sindri, District Ajmer was purchased (February 2008) by the Birla Education Trust, Kolkata (Trust) for the purpose of residential educational institute. The Trust paid land cost amounting to ₹ 7.87 crore at the rate of ₹ 6.50 lakh per *bigha*. The Trust

applied for conversion of land for institutional purpose to the Collector, at 10 *per cent* of DLC rate (DLC rate of ₹ 3.5 lakh per *bigha* was fixed on 18.11.2006). The Collector forwarded the case to the Government which was sanctioned vide order dated 18.06.2009. The Collector, however, referred (July 2009) the matter back to the Government for direction regarding conversion charges as the land was purchased at a rate higher than the agricultural DLC rate of ₹ 3.50 lakh. Meanwhile the Trust furnished an undertaking (July 2009) to deposit the difference between the DLC rate (₹ 3.50 lakh) and the purchase rate (₹ 6.50 lakh).

It was noticed that the Collector without waiting for Government clarification/direction on the matter issued (July 2009) conversion order and charged 10 *per cent* premium of applicable agricultural DLC rate at ₹ 0.35 lakh per *bigha*. Subsequently, the Government directed (August 2009) the Collector to determine conversion charges. But, the collector did not redetermine the rate, although its market value had already increased to ₹ 6.50 lakh per *bigha* even in February 2008. This resulted in short recovery of conversion charges of ₹ 37.02 lakh[5].

The matter was brought to the notice of the Department (May and August 2011) and reported to the Government (March 2012); their replies were awaited (November 2012).

(ii) During test check of the records of Collector, Sikar it was found that Sanwar Mal Singhania Memorial Trust (Trust), Kishangarh had purchased 22.38 hectare of agricultural land at village Palsana. The Collector, Sikar issued two separate orders on 20.08.2009 and 28.01.2010 for conversion of agricultural land for institutional purpose. It was noticed that 4.38 hectare land was converted as per rates of land on National Highway (NH 11) at ₹ 19.61 per square metre and remaining 18 hectare at rates away from NH 11 at ₹ 5 and ₹ 5.69 per square metre.

On scrutiny of site plan of the trust as well as report of *Naib Tehsildar* (Palsana), it was found that the campus of the Trust was located on NH 11, therefore, decision of the Collector, Sikar to consider two separate DLC rates for a single piece of land located on NH was incorrect. This resulted in short levy of conversion charges of 18 hectares of land amounting to ₹ 23.36 lakh[6].

The matter was brought to the notice of the Department (December 2011) and reported to the Government (January and May 2012). The Government stated (October 2012) that demand has been raised and recovery was under progress. Further progress was awaited (November 2012).

[5] ₹ 65,000 (10 *per cent* of ₹ 6.50 lakh) X 121 *bigha* = ₹ 78,65,000 (+) ₹ 65,000 divided by 20 for *biswa* = ₹ 3,250 and ₹ 3,250 divided by 20 for *biswansi* = ₹ 162.50 X 12 *biswansi* = ₹ 1,950 (+) penalty ₹ 1,19,340 (-) recovery 42,84,245.

[6] Land measuring 15.35 hectare (153500 sqm X ₹ 17.82 per sqm (rate as on 20.08.2009)) = ₹ 27.35 lakh and 2.65 hectare (26500 sqm X ₹ 19.60 sqm (rate as on 28.01.2010))= ₹ 5.19 lakh. This resulted in loss of ₹ 0.23 crore (₹ 32.54 lakh – ₹ 9.18 lakh= 23.36 lakh).

4.11 Non-deposit of conversion charges and interest

The Government of Rajasthan (Urban Development Department) issued instructions in August 2001 that the regularisation/ transfer/ conversion charges received by local bodies for regularisation of use of agricultural land for non-agricultural purpose were to be credited initially in the personal deposit account of the local bodies and thereafter 40 *per cent* share was to be remitted to Government account immediately. It was further decided (March 2007) that interest at the rate of 12 *per cent* per annum would be leviable for delayed payment, in case the Government share to the extent of 40 *per cent* was not deposited in time.

During test check of the Demand, Collection and Balance (DCB) statements of Collector, Kota, it was noticed that a demand of ₹ 47.19 lakh (40 *per cent* share) was pending against the Urban Improvement Trust (UIT), Kota.

It was noticed that no action was taken by the District Revenue Accountant (DRA) for deposit of Government share in the Government account. This resulted in non-deposit of Government share of ₹ 47.19 lakh by UIT, Kota besides, interest of ₹ 2.12 lakh was payable.

The matter was brought to the notice of the Department (July 2011 and January 2012) and reported to the Government (February and May 2012); their replies were awaited (November 2012).

4.12 Conversion charges and penalties on mobile towers

As per Rule 7 of Rajasthan Land Revenue (RLR) (Conversion of Agricultural Land for Non-agricultural purposes in Rural Areas) Rules, 2007, premium for conversion of agricultural land for non-agricultural at the rates notified by the Government from time to time are leviable. Further, as per rule 13 of the said Rules and Government Circular issued on 20.10.2008, penalty at the rate of four times of the conversion amount is also chargeable if land is used for a non-agricultural purpose without conversion of the land.

During test check (June 2011 to January 2012) of the reports of *Patwaris*[7] submitted to *Tehsildars* of five Collectorates, it was found that the *Patwaris* had reported about use of *khatedari* land for non-agricultural purposes without conversion to the concerned *Tehsildars*.

It was noticed that no action was taken by the concerned *Tehsildars* and the Collectors for recovery of premium for conversion of *khatedari* land for non-agricultural purposes and penalty on unauthorised construction. Thus, inaction of the concerned *Tehsildars* and Collectors

[7] *Patwari* is a land record officer at *Tehsil* level. As the lowest State functionary in the Revenue collection system of the Land Revenue Department, his job encompasses visiting agricultural lands and maintaining record of ownership and tilling *(girdawari)*.

resulted in non-recovery of premium for conversion of land and penalty amounting to ₹ 1.28 crore as detailed below:

(₹ in lakh)

Sl. No.	Name of District	No. of cases	Land use	Conversion charges leviable	Penalty Leviable	Total
1	Rajsamand	180	Mobile phone Towers	10.70	42.81	53.51
2	Udaipur	212	Mobile phone Towers	5.12	20.47	25.59
3	Churu	89	Mobile phone Towers	2.71	10.84	13.55
4	Ajmer	75	Shops, Hotels & Restaurant *etc.*	8.39	14.30	22.69
5	Jaipur	4	Residential, Residential projects, Industrial and Institutional projects	2.68	9.90	12.58
Total		**560**		**29.60**	**98.32**	**127.92**

The issue regarding use of *Khatedari* land for mobile phone towers without conversion was also raised by the Audit with the Principal Secretary, Revenue Department in November 2011. However, no action was taken by the Department for recovery of conversion charges and regularisation of land use.

The matter was brought to the notice of the Department (June 2011 to January 2012) and reported to the Government (October 2011, February and May 2012); their replies were awaited (November 2012).

4.13 Non/short recovery/deposit of lease money and interest

4.13.1 Non-recovery of arrears

As per Rule 7 (4) of the Rajasthan Improvement Trust (Disposal of Urban Land) Rules, 1974 the ground rent (urban assessment) shall be deposited with the UIT by the 31st of March each year to be credited to the consolidated fund of the State Government.
Further Rule 7 (6) of the said Rules stipulates that the arrear of ground rent (lease money) with interest shall be recovered under the provision of the Rajasthan Public Demand Recovery (RPDR) Act, 1952. Further, State Government issued (October 2002) instructions to recover the amount of lease money on priority basis.

During test check of the DCB statements of the Collectors, Udaipur and Ajmer, it was found that in 10 cases, ground rent aggregating to ₹ 42 lakh was not recovered from the lease holders, by the UIT, Udaipur and Ajmer despite a lapse of 4 to 31 years. No action for recovery of dues under RPDR Act was taken by the concerned Collectorates/UITs. Thus Government revenue ₹ 72 lakh including interest ₹ 30 lakh remained unrealised.

After this was pointed out in January 2012, the UIT, Udaipur replied (July 2012) that in four cases ₹ 29.30 lakh had been recovered and notices had been issued in the remaining three cases. The UIT, Ajmer replied (July 2012) that

in two cases reference had been registered under RPDR Act and in one case action for recovery was being taken.

The matter was reported to the Government in May 2012; its reply was awaited (November 2012).

4.13.2 Short recovery of lease money

Under Rule 5 of the Rajasthan Land Revenue (Industrial Area Allotment) Rules, 1959 lease rent shall be leviable on the land allotted for industrial purposes. As per Rule 6, the lease rent has to be revised after 30 years of allotment of the land. However, the increase in lease rent cannot be more than 25 *per cent* of the existing rent. The Government by issue of notification dated 13 August 2009 revised the rates of lease rent for villages, towns and cities. The rates were fixed in accordance with the population of the places.

During test check of records of Collectors, Udaipur and Rajsamand, it was noticed that land was allotted to M/s Metal Corporation of India Ltd, Kolkata in 1962, M/s J.K. Industries Ltd, Kolkata in 1975 and M/s Hindustan Zinc Ltd, Dariba Mines in 1995 on 99 years lease for industrial purposes.

On scrutiny of allotment and lease rent files, it was found that the concerned Collectors had not revised the lease rent after expiry of 30 years. As a result, these lessees were charged at the amount of rent fixed in the year of allotment even though more than 30 years had elapsed. The lease rent and the revised rates are shown in the table below:

(₹ in lakh)

Name of Collectorate	Name of lessee	Revised lease rent to be charged	Lease rent charged	Short charge
Udaipur	M/s Metal Corporation of India Ltd. Kolkata	18.61	1.19	17.42
Rajsamand	M/s J.K. Industries Ltd. Kolkata	23.61	1.95	21.66
Rajsamand	M/s Hindustan Zinc Ltd. Dariba Mines	6.76	0.25	6.51
	Total	**48.98**	**3.39**	**45.59**

As seen from the above table, non-revision of lease rent resulted in loss amounting to ₹ 45.59 lakh.

The Government stated (September 2012) that demand had been raised in cases pertaining to two lessees in Rajsamand. The reply was silent regarding Udaipur.

4.13.3 Non-remittance of ground rent in the Government account

Under Rule 7 (4) of the Rajasthan Improvement Trust (Disposal of Urban Land) Rules, 1974, urban assessment or ground rent is to be deposited with the trust by the 31st March of each year. Further, 40 *per cent* of the collected amount may be retained by the trust as a service charge for the collection and 60 *per cent* amount shall be deposited with the Government as Government receipts to the consolidated fund of the Government.

During test check of the DCB statements of Collector, Kota and allotment files of lessees and registers maintained by the UIT, Kota, it was noticed that the UIT had collected ground rent (urban assessment) amounting to ₹ 8.37 crore, during the year 2010-11. However, the Government's share amounting to ₹ 5.02 crore (60 *per cent* of collected amount) had not been deposited in the Government account. Cross check of data from UIT, Kota revealed that the UIT had also charged interest for delayed deposit of ground rent from the lessees but the interest so collected had been short deposited to the extent of ₹ 0.41 crore to the Government account.

It was noticed that the DRA had failed to monitor the timely deposit of Government share and the interest charged by the UIT in the Government account. This resulted in non-realisation of Government share amounting to ₹ 5.44 crore.

The matter was brought to the notice of the Department (July 2011) and reported to the Government (May 2012). In reply, the Government stated (September 2012) that ₹ 4.76 crore has been deposited in Government account. The reply was silent about short deposit of interest amount.

4.14 Absence of provision for charging interest on delayed remittance of Government share resulted in potential loss

As per Notifications dated 8.03.2006 and 2.01.2007, the UITs were directed to deposit 10 *per cent* of the total amount received from sale of land in the Government account. There was no provision for levy of interest on delayed remittances of amounts due by the UITs.

(i) On cross verification of records of the Collector and the UIT, Ajmer it was noticed that the Government share out of the proceeds from sale of Government land amounting to ₹ 3.53 crore during the years 2005-06 to 2009-10 was deposited on 26.03.2010 after delays ranging from one to four years.

In absence of the provision of interest, interest amounting to ₹ 61.38 lakh at the rate of 12 *per cent* could not be levied.

(ii) On cross verification of records of the Collectors, Ajmer and Kota with the records of corresponding UITs, it was noticed that the UITs had collected lease money for various years from lease holders, but the Government's 60 per cent share out of lease money collected under Rule 7 (4) of the Rajasthan Improvement Trust (UIT) (Disposal of Urban Land) Rules, 1974

was deposited with a delay ranging from one to four years. Further, the UITs had charged interest from the lessees at the rate of 12 *per cent* for belated deposit of lease money. However, no amount of interest was deposited by the UITs in the Government account in absence of any provision for charging of interest on belated deposit by the UITs in the Government account.

In absence of the provision of interest, interest amounting to ₹ 4.70 crore at the rate of 12 *per cent* could not be levied.

As per decision taken in a meeting held under the chairmanship of the Principal Secretary (Finance and Planning Department), the Jaipur Development Authority (JDA) was authorised (30.01.2004) to dispose nazul property P-92 measuring 419.13 sqm situated at Shri ji ki mory, Chowkri Sarhad, Jaipur through open bid as residential plot. As per the condition of the order dated 24 January 2005, the amount realised from the auction by the JDA was to be deposited immediately in the Government account.

(iii) During test check of records of the Director Estate, Jaipur it was noticed (November 2011) that the JDA auctioned (December 2010) land measuring 419.13 sqm for ₹ 1.76 crore as commercial plot. The auctioned amount was deposited by the bidder on 04.02.2011. After deduction of administrative and service tax charges an amount of ₹ 1.58 crore was deposited (17.08.2011) by the JDA after more than six months.

In absence of the provision of interest, interest amounting to ₹ 10 lakh at the rate of 12 *per cent* could not be levied.

The matter was brought to the notice of the Department (July 2011) and reported to the Government (May 2012). The Government stated (September 2012) that proposal for making provision of interest for delayed deposit of Government share of lease money was under progress.

4.15 Breach of conditions mentioned in the allotments

Conditions No. 2(iii) and (vii) appended to the Rules specify that the land shall be used strictly for the purpose for which it had been allotted and in the event of any breach of the aforesaid conditions the land should be reverted to the Government along with the construction thereon without any claim for compensation.

The State Government had regularised (03.05.1997) Government land measuring 555.80 *bighas* to Bhawani Niketan Educational and Charitable Trust (Trust) for construction of high school, boarding house and staff quarters under the rules *ibid*. The land was already in possession of the Trust and was allotted for educational purposes only.

However, during test check of records of the Collector, Jaipur, it was found that the Trust was using about five *bigha* land (*khasra* no. 15) for commercial purpose by renting out the land in the form of three marriage gardens. On cross check of this information with Jaipur Municipal Corporation it was

found that the Trust had registered three marriage gardens with it and had deposited the requisite licence fee of ₹ 75,000 for the year 2010-11.

It was noticed that the matter was referred by the Collector, Jaipur to the Government in August 2011. However, no action was taken (June 2012) under the conditions No. 2(iii) and (vii) for reversion of this land specified for use of educational purposes, though the Trust had been using this prime land for commercial purposes which was in the knowledge of the Collector and the Department.

The matter was brought to the notice of the Department (July 2011) and reported to the Government (June 2012); their replies were awaited (November 2012).

CHAPTER-V

STAMP DUTY AND REGISTRATION FEE

CHAPTER-V: STAMP DUTY AND REGISTRATION FEE

5.1 Tax administration

Receipts from Stamp Duty and Registration Fee (SD & RF) in the State are regulated under the Indian Stamp Act, 1899, Registration Act 1908, Rajasthan Stamp (RS) Act, 1998 effective from 27 May 2004 and the rules made thereunder. The SD is leviable on execution of instruments and RF is payable on registration of instruments.

The determination of policy, monitoring and control at the Government level is done by the Secretary, Finance (Revenue) Department. The Inspector General, Registration and Stamps is the head of the Registration and Stamp Department. He is assisted by an Additional Inspector General in administrative matters and by a Financial Adviser in financial matters. The entire State has been divided into 13 circles, of these 12 circles are headed by Deputy Inspector General (DIG) cum *ex-officio* Collector (Stamps) and Jaipur circle by Additional Collector (AC) (Stamps). There are 33 District Registrars (DRs), 67 Sub-Registrars (SRs) and 289 *ex-officio* SRs[1].

5.2 Trend of receipts

Actual receipts from SD and RF during the year 2007-08 to 2011-12 along with the total tax receipts of the State are exhibited in the following table:

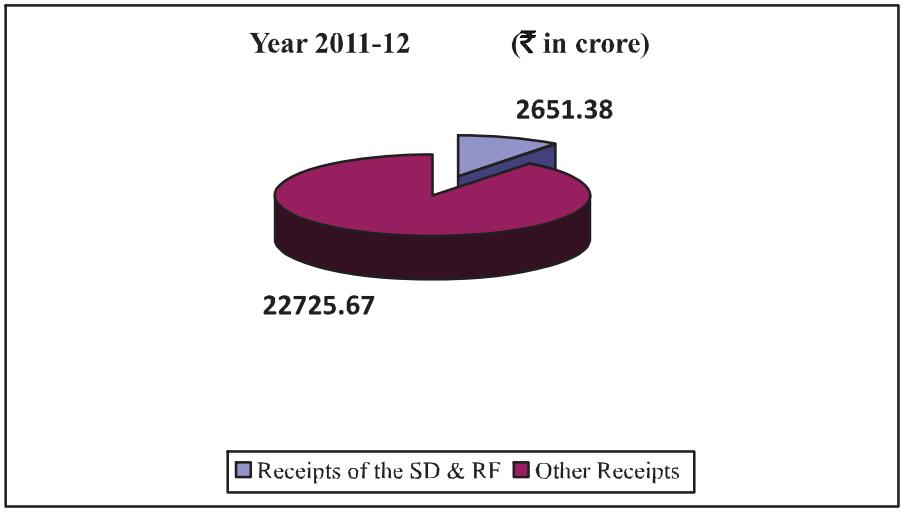
(₹ in crore)

Year	Budget estimates	Actual SD & RF receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts to total tax receipts
2007-08	1,500.00	1,544.35	(+) 44.35	(+) 2.96	13,274.73	11.63
2008-09	1,575.00	1,356.63	(-) 218.37	(-) 13.86	14,943.75	9.08
2009-10	1,450.00	1,362.94	(-) 87.06	(-) 6.00	16,414.27	8.30
2010-11	1,750.00	1,941.07	(+) 191.07	(+) 10.91	20,758.12	9.35
2011-12	2,500.00	2,651.38	(+) 151.38	(+) 6.06	25,377.05	10.45

The variations between the Budget Estimates and Actuals in 2008-09 was (-) 13.86 *per cent* and 10.91 *per cent* in 2010-11. In the remaining years it was less than 10 *per cent*.

[1] *Tehsildars* and *Naib Tehsildars* have been declared as ex-officio SRs.

A pie chart of actual SD and RF receipts as compared to other receipts for the year 2011-12 is shown below:



The receipts from SD and RF consisted 10.45 *per cent* of the total tax receipts of the State during the year 2011-12, as against 9.35 *per cent* during 2010-11. Thus, there has been an increasing trend in collection of revenue under the SD and RF in the total tax receipts of the State.

5.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 amounted to ₹ 170.96 crore, of which ₹ 67.36 crore constituting about 39.40 *per cent* were more than five years old. The following table depicts the position of arrears of revenue upto 2011-12.

(₹ in crore)

Year of Arrear	Total arrears as on 1.4.2011	Recovery during year 2011-12	Recoveries outstanding as on 31.3.2012
Upto 2007-08	67.84	0.48	67.36
2008-09	26.42	0.40	26.02
2009-10	16.48	1.64	14.84
2010-11	29.62	4.83	24.79
2011-12	67.02	29.07	37.95
Total	**207.38**	**36.42**	**170.96**

As ₹ 67.36 crore are outstanding for five years or more, chances of their recovery are bleak. The reasons for non-recovery of arrears were not furnished to audit.

5.4 Cost of collection

The gross collection of the revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the period from 2007-08 to 2011-12 along with all India average percentage of

expenditure on collection to gross collection of the preceding years are as follows:

(₹ in crore)

Sl. no.	Year	Gross collection	Expenditure on collection of revenue	Percentage of expenditure to gross collection	All India average in percentage of the preceding year
1.	2007-08	1,544.35	22.80	1.48	2.33
2.	2008-09	1,356.63	29.09	2.14	2.09
3.	2009-10	1,362.94	31.33	2.30	2.77
4.	2010-11	1,941.07	33.63	1.73	2.47
5.	2011-12	2651.38	43.40	1.64	1.60

The percentage of cost of collection to gross collection was less than the all India average percentage during 2007-08 and 2009-11 but 2011-12 witnessed a reversal in the trend.

5.5 Impact of Audit Reports

During the last five years upto 2010-11, cases of non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, application of incorrect rate of tax, incorrect computation *etc*. with revenue implication of ₹ 207.02 crore in 19 paragraphs were pointed out through audit reports. Of these, the Department/Government had fully/partly accepted audit observations in 16 paragraphs involving ₹ 134.36 crore and had since recovered merely ₹ 5.56 crore (September 2012). The details are shown in the following table:

(₹ in crore)

Year of audit	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number of paragraph	Amount
2006-07	3	81.10	3	78.72	2	2.99
2007-08	6	58.36	5	4.14	4	0.90
2008-09	4	10.47	4	10.47	4	1.51
2009-10	5	27.31	3	19.79	3	0.16
2010-11	1	29.78	1	21.24	-	-
Total	**19**	**207.02**	**16**	**134.36**	**13**	**5.56**

The Government may make efforts for early recovery of the accepted audit observations. Recovery of ₹ 5.56 crore (4.14 *per cent*) out of ₹ 134.36 crore indicates lackadaisical approach of the Department towards the recoveries.

5.6 Working of Internal Audit Wing

Financial Adviser is the Head of the Internal Audit Wing. Planning for internal audit of units is made on the basis of importance and revenue realisation. The position of the internal audit during the years 2007-08 to 2011-12 was as under:

Year	Pending units	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remained unaudited	Shortfall in *per cent*
2007-08	-	369	369	68	301	81.57
2008-09	301	369	670	458	212	31.64
2009-10	212	369	581	360	221	38.04
2010-11	221	369	590	353	237	40.17
2011-12	237	369	606	386	220	36.30

Source - Figures shown in the table are based on the latest Information provided by the IG Registration & Stamps, Ajmer.

It was noticed that 9,591 paragraphs were outstanding at the end of 2011-12. Year-wise breakup of outstanding paragraphs of internal audit reports is as under:

Year	Upto 2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	Total
Paras	5,488	235	792	942	1,031	1,103	**9,591**

Source - Figures shown in the table are based on the latest Information provided by the IG Registration & Stamps, Ajmer.

As many as 5,488 paragraphs of internal audit reports were outstanding upto 2006-07, action on which becomes increasingly difficult with passage of time as such these need immediate and focused attention of the Government. Thus, the outstanding paras defeated the very purpose of internal audit.

The Government needs to strengthen the internal audit wing so that timely detection and correction of errors in levy and collection of revenue are ensured. Further, efforts may be made for expeditious settlement of outstanding paras of internal audit.

5.7 Results of audit

During test-check of the records of 193 units of the Department of Registration and Stamps conducted during the year 2011-12, Audit noticed short realisation of SD and RF amounting to ₹ 74.71 crore in 4,286 cases which broadly fall under the following categories:

(₹ in crore)

Sl. no.	Category	Number of cases	Amount
1.	Undervaluation of properties	2,859	33.58
2.	Other irregularities	1,427	41.13
Total		**4,286**	**74.71**

The Department accepted (2011-12) under assessment and other deficiencies of ₹ 12.41 crore pertaining to 2,674 cases of which 533 cases involving ₹ 9.84 crore were pointed out during the year 2011-12 and the others in the earlier years. The Department recovered ₹ 1.27 crore in 1,337 cases during the year 2011-12, of which 32 cases involving ₹ 2.42 lakh related to the year 2011-12 and the others to the earlier years.

After issue of draft paragraph, the Department recovered ₹ 1.18 crore pertaining to a single observation pointed out during 2011-12.

A few illustrative audit observations involving ₹ 4.86 crore are discussed in the following paragraphs.

5.8 Audit observations

During scrutiny of records of various registration offices, several cases of non-compliance of the provisions of the Rajasthan Stamp Act, 1998 and Indian Registration Act, 1908 were noticed. These cases are illustrative and based on a test-check carried out in audit. Some of these omissions are pointed out in audit each year. However, such irregularities still persist year after year. There is a need for the Government to improve the internal control system so that recurrence of such cases can be avoided.

5.9 Non-observance of provisions of Acts/Rules

The provisions of Rajasthan Stamp Act, 1998 (RS Act) and Indian Registration Act, 1908 (IR Act)/ notifications of the Government require:

(i) *levy of duty on market value of the property;*

(ii) *levy of SD on the amount of consideration, interest, penalty etc. where immovable property is allotted/sold by the Government, UITs etc;*

(iii) *levy of SD and RF on unregistered/misclassification of developer agreement plus transfer of land where it is presented as purely developer agreement;*

(iv) *levy of SD on irrevocable power of attorney of other state not duly stamped in Rajasthan;*

(v) *levy of SD on partition deed as per Schedule amended in RS Act, 1998;*

(vi) *levy of SD in cases of lease not executed and as on a conveyance for a consideration equal to the amount or value of such fine, premium or advance and amount of average rent of two years; and*

(vii) *recovery of exemption of SD where rules were not followed as per Rajasthan Investment Policy Scheme, 2003.*

During audit, it was noticed that registering authorities did not observe some of the above provisions in cases mentioned in the succeeding paragraphs.

5.10 Underassessment/non-execution of lease deeds

5.10.1 Short levy of Stamp Duty (SD) on registration of lease deeds due to non-inclusion of interest amount in the consideration

As per the notification dated 22.05.2003, on all the instruments executed by the Rajasthan Industrial Investment Corporation Limited (RIICO) in respect of immovable property allotted/sold by it, SD is charged as conveyance on the sum of the total amount of consideration including interest, penalties, any other amount paid as consideration and average rent of two years, if any, instead of the market value of the property.

During test check (February 2012) of the records of Sub Registrar (SR), Bhiwadi (Alwar), it was noticed that five lease deeds pertaining to the plots allotted to five firms[2] by RIICO were registered during the year 2010-11 to establish industries. It was seen that the SR charged Stamp Duty at the rate of five *per cent* on consideration amount excluding interest amount as per details given below:

(Amount in ₹)

Sl. no.	Document no. and date	Consideration amount including interest	Consideration amount adopted	SD		
				Leviable	Levied[3]	Difference
1	1430/19.04.10	13,49,55,229	12,00,09,650	33,73,880	30,00,245	3,73,635
2	3282/30.08.10	16,13,01,307	14,61,73,374	40,32,533	36,54,340	3,78,193
3	411/03.02.11	16,97,08,070	15,10,26,096	42,42,702	37,75,660	4,67,042
4	468/10.02.11	25,47,330	20,87,270	63,683	52,190	11,493
5	586/18.02.11	40,48,545	36,00,550	1,01,214	90,020	11,194
Total				**1,18,14,012**	**1,05,72,455**	**12,41,557**

This resulted in short levy of SD of ₹ 12.42 lakh.

The matter was brought to the notice of the Department (March 2012) and reported to the Government (May 2012). The Government in its reply stated (October 2012) that the concerned SR has been instructed to recover the amount. Further progress was awaited (November 2012).

[2] (i) M/s Hythrow Power Corporation Limited, New Delhi (ii) M/s Clutch Auto Limited, New Delhi (iii) M/s Surendra Enterprises (iv) M/s Narayan Steel Fabrication, Bhiwadi (v) M/s Sun Beam Private Limited, Haryana.

[3] The SD was levied allowing 50 *per cent* rebate under the Rajasthan Investment Promotion Scheme (RIPS) 2003.

5.10.2 Short levy of SD and RF on lease deeds granted for Premium *etc.* in addition to rent

As per the provisions of Article 33(c) (i) of the Schedule to the RS Act, 1998, if a lease is granted for a fine or premium or for money advanced or development charges advanced or security charges advanced in addition to rent reserved and such lease purports to be for a term of not more than 20 years, the SD is chargeable as a conveyance for a consideration equal to the amount or value of such fine, premium or advance and the amount of average rent of two years as set forth in the lease. The RF is also chargeable at one *per cent* of the valuation subject to maximum of ₹ 25,000 upto 8.04.2010 and ₹ 50,000 since 9.04.2010.

During test check of the records of four SR offices[4], it was noticed that 18 lease deeds with lease terms spanning two to 19 years and 11 months were registered during the year 2010-11. The SRs had charged RF at the rate of one *per cent* and SD at the rate of two *per cent* in the case of commercial property and at the rate of one *per cent* in the case of residential property on average rent of one year and security deposit, instead of conveyance rate on average rent of two years and security deposit. This resulted in short levy of SD and RF aggregating ₹ 57.26 lakh.

The matter was reported to the Government (May 2012). The Government stated (October 2012) that in two cases recovery of ₹ 2.04 lakh has been made, in 14 cases references have been made against the executants and in the remaining two cases notices have been issued to the executants asking them to deposit the amount. Further progress was awaited (November 2012).

[4] Jaipur-VI, Jaipur-VII, Jaipur-VIII and Phagi.

5.11 Short levy of SD and RF on developer agreement

As per Section 3 of the RS Act, 1998, every instrument shall be chargeable with duty at the prescribed rates mentioned in the Schedule to the RS Act. Various judgments pertaining to levy of SD clarify that an instrument is required to be classified on the basis of its recitals given in the document and not on the basis of its title.

As per the provisions of Article 5(bbbb) to the Schedule of the RS Act, an agreement or memorandum of agreement, if relating to giving authority or power to a promoter or a developer, by whatever name it may be called, for construction or development of any immovable property, is chargeable to SD at the rate of one *per cent* of the market value of the property.

Further as per Section 6 of the RS Act, 1998, any instrument comprising or relating to several distinct matters, shall be chargeable with the aggregate amount of the duties with which separate instrument, each comprising or relating to one of such matters would be chargeable under the Act.

(i) During test check of the records of three SR offices[5], it was found that six developer agreements[6] had been registered between April and December 2010. The SRs classified these agreements on the basis of their title and levied SD at the rate of one *per cent* of the market value of the property as per Article 5(bbbb) of the Schedule appended to the RS Act.

On scrutiny of these six developer agreements, it was found that the owners of the land had authorised the developers to take possession of the land with the right to construct, develop and deal with the land in exchange of entitlement to the extent of 30 to 58 *per cent* of the developed land. The developers were entitled to dispose of remaining portion of developed land without requiring any consent from the owners.

Stamp duty ₹ 69.79 lakh[7] was required to be charged instead of ₹ 21.01 lakh. Thus, incorrect levy of SD resulted in non-realisation of ₹ 48.78 lakh.

The matter was reported to the Government (May 2012). The Government stated (October 2012) that in the cases of Udaipur-I and II, SRs had been instructed to either recover the amount or make references against the executants to the Collector (Stamps). The reply further stated that in the case of Jaipur-VI, reference had been made against the executant to the Collector (Stamps) Jaipur. Further development was awaited (November 2012).

(ii) During test check of the records of SR, Sanganer-II, it was noticed that a sale deed was registered between the developer (M/s. Alokik Buildcom Pvt. Ltd. Jaipur) and the purchaser for purchase of ready built flats. On scrutiny of

[5] Udaipur-I, Udaipur-II and Jaipur-VI

[6] Miraj Developer Pvt. Ltd. Udaipur, Miraj Developer Pvt. Ltd. Udaipur, M/s CORAL Infra Gold, Pvt. Ltd. Jaipur, M/s Unique Builders (Ganesh) Jaipur, M/s Rashmi Realty Builders Pvt. Ltd. Mumbai and M/s Shree Krishna Abodes Pvt. Ltd. Jaipur

[7] (one *per cent* on 30 to 58 *per cent* value and five *per cent* on 42 to 70 *per cent* value of the property)

the recital of the sale deed, it was found that multi-storeyed flats were constructed by the developer on behalf of the owner of the land as per terms and conditions of the agreement (July 2005). This agreement was attested by the Notary Public wherein it was mutually agreed by the owner and the developer that in lieu of the land, the owner of the land was entitled to get 67.5 *per cent* share of the built-up area upon all the floors and entitlement of the remaining 32.5 *per cent* share of the total built up area upon all floors would go to the developer in lieu of his investments and expertise involved in development of the said land. The developer was thus, entitled to dispose of remaining 32.5 *per cent* share of developed land without requiring any consent from the owner. The owner of the land handed over the actual physical possession of the said land measuring 1431.22 square metres valuing ₹ 9.93 crore to the developer in March 2006.

It was noticed that while registering the sale deed, the SR did not levy SD on this distinct matter *i.e.* transfer of the share of land to the extent of 32.5 *per cent* to the developer by the owner and on the basis of development agreement.

The non-registration of the development agreement (July 2005) resulted in non-levy of SD of ₹ 6.70 lakh at the rate of one *per cent* on the owner's share *i.e.* 67.5 *per cent* of land valuing ₹ 6.70 crore. Further, the said agreement (July 2005) was also, in fact, an instrument of conveyance to the extent of 32.5 *per cent* share of land valuing ₹ 3.23 crore and therefore, SD of ₹ 16.14 lakh at the rate of five *per cent* of the value of ₹ 3.23 crore of the land was leviable. Thus, non-registration of agreement and non-levy of SD on conveyance resulted in non-levy of SD and RF of ₹ 22.84 lakh.

The matter was brought to the notice of the Department (March 2012) and reported to the Government (May 2012). The Government stated (October 2012) that reference has been made against the executants to the DIG (Stamps). Further progress was awaited (November 2012).

(iii) During test check of the records of SR, Jaipur-VI, it was noticed that a sale deed (no.1386 dated 21.05.2010) was registered between the owner, the developer (Shri Krishna Abods Pvt. Ltd.) as one party and the purchaser as the other party for purchase of ready built flat. On scrutiny of the recital of the sale deed, it was found that multi-storeyed flats were constructed by the developer on behalf of the owner of the land as per terms and conditions of the agreement (July 2007) along with a supplementary agreement (March, 2008) wherein both the parties had agreed to divide the developed property in the ratio of 60 : 40 *per cent*. It was noticed that both the agreements were not registered by the owner or the developer in the SR office and SD on conveyance of transferred land measuring 1025.46 square metres valuing ₹ 7.21 crore (40 *per cent*) was not paid.

It was further noticed that on presentation of sale deed, the SR did not levy SD on this distinct matter *i.e.* 40 *per cent* share of developed land transferred to the developer by the owner (whereby the developer could sell 40 *per cent* share of developed land without requiring any consent from the owner) and for registration of development agreement.

Non-registration of the agreement by the SR on the owner's share of 60 *per cent* land valuing ₹ 4.33 crore[8] resulted in non-levy of SD amounting to ₹ 4.33 lakh (at the rate of one *per cent*). Further, the said agreement was also instrument of conveyance to the extent of 40 *per cent* share of land valuing ₹ 2.88 crore[9] and therefore, SD ₹ 14.42 lakh at five *per cent* of the value ₹ 2.88 crore of the land should have been levied. Thus, non-registration of agreement and non-charging of SD on conveyance resulted in non-levy of SD aggregating ₹ 18.75 lakh.

The matter was brought to the notice of the Department (March 2012) and reported to the Government (May 2012). The Government stated (October 2012) that reference has been made against the executants to the DIG (Stamps) Circle Jaipur (Vigilance). Further progress was awaited (November 2012).

(iv) During test check of the records of SR, Jodhpur-I, it was noticed that an instrument of sale deed was executed (April 2010) between the developer (M/s. Parshwnath Developers) and the purchaser for purchase of a plot. Scrutiny of the recital of the instrument of sale deed revealed that a development agreement was executed between the developer and the owner (M/s. Time Bound Contracts Pvt. Ltd.) of the land for developing individual plots situated at village Sangria, *Tehsil* Jodhpur.

It was noticed that the SR registered the sale deed between the developer and purchaser without registering development agreement between the owner and the developer. Non-registration of the development agreement resulted in non-levy of SD at the rate of one *per cent* of market value of the land and RF at the rate of one *per cent* subject to maximum of ₹ 0.50 lakh. As the market value of the land was ₹ 36.27 crore, non-levy of SD and RF thus, resulted in non-realisation of ₹ 36.77 lakh.

The matter was brought to the notice of the Department (December 2011) and reported to the Government (May 2012). The Government stated (October 2012) that reference has been made against the executants to the Collector (Stamps), Jodhpur. Further progress was awaited (November 2012).

[8] (1538.20 sq mtr x DLC rate ₹ 28,130 per sq. mtr.)
[9] (1025.46 sq mtr x DLC rate ₹ 28,130 per sq. mtr)

5.12 Irregular registration of sale deeds through irrevocable general power of attorneys executed out of the State

As per explanation (i) below Article 21 of the Schedule appended to the RS Act, 1998, an irrevocable power of attorney (POA) executed in the course of conveyance shall, in case of transfer of the possession of such property before, at the time of or after execution of any such instrument, be deemed to be a conveyance and the stamp duty thereon shall be chargeable accordingly.
As per Article 44(ee) of the Schedule appended to the RS Act 1998, if a POA is given without consideration to sell immovable property to any other person, the stamp duty is payable at the rate of two *per cent* of the market value of the property which is the subject matter of the POA.

During test check of the records of SR, Pokhran (Jaisalmer), it was noticed that 29 sale deeds worth ₹ 2.75 crore were registered in the month of March 2011, on the basis of irrevocable POA executed out of the State in the office of Notary Public, New Delhi during July 2006 to September 2007. The SD at the rate of five *per cent* was leviable as per explanation (i) of Article 21 of the Schedule. However, the SR, Pokhran had charged SD amounting to ₹ 6.67 lakh at the rate of two *per cent* on these 29 irrevocable POAs under Article 44(ee) of the Schedule. Thus, incorrect application of rate of SD on irrevocable POA resulted in non-recovery of SD amounting to ₹ 7.06 lakh. Further, the SR should have forwarded the case to the Collector (Stamps) for levy of penalty for non-submission of the POAs within three months. The admission of these 29 irrevocable POAs by the SR, Pokhran under Article 44(ee) of the Schedule resulted in short levy of SD of ₹ 7.06 lakh.

The matter was brought to the notice of the Department (December 2011) and reported to the Government (May 2012). The Government stated (October 2012) that the SR, Pokhran has been instructed to make reference against the executants to the Collector (Stamps), Jodhpur. Further progress was awaited (November 2012).

5.13 Under-valuation of property

As per Article 21(i) of the Schedule to the RS Act, 1998, SD on the instrument of conveyance relating to immovable property shall be levied on the market value of the property. Rule 58 of the RS Rules, 2004 provides that the market value of the land shall be assessed on the basis of the rates recommended by the District Level Committee (DLC) or the rates approved by the IG (Registration and Stamps), whichever is higher.

IG (Registration and Stamps) directed (January 2010) that if an agricultural land is purchased by the firm for the purpose of establishing an industry, then, valuation of agricultural land shall be assessed accordingly for the purpose of levy of SD. The RF was chargeable at the rate of one *per cent* of the valuation subject to maximum of ₹ 25,000 upto 08.04.2010 and ₹ 50,000 since 09.04.2010.

5.13.1 During test check of the records of SR, Jodhpur-I, it was noticed that a sale deed was registered (August 2010) wherein 29.6 *bigha* agricultural land, already converted into non-agricultural purpose (September 2008) by the Urban Improvement Trust, Jodhpur was sold. Scrutiny of the sale deed revealed that due to concealment of the fact about conversion of land, the SR, Jodhpur-I charged the SD of ₹ 6.51 lakh at the rate of five *per cent* on the valuation of agricultural land amounting to ₹ 1.30 crore[10] instead of SD payable ₹ 34.04 lakh on the valuation as residential land amounting to ₹ 6.81 crore[11] as the said land was converted into non-agricultural purpose. Thus, under-valuation of the property resulted in short levy of SD of ₹ 27.53 lakh.

The matter was brought to the notice of the Department (January 2012) and reported to the Government (May 2012). The Government stated (October 2012) that the matter was being examined at the Departmental level. Further progress was awaited (November 2012).

5.13.2 During test check of the records of SR, Pokhran, it was noticed that a sale deed was registered (July 2010) by the SR, Pokhran (Jaisalmer) wherein 1364.75 bigha agricultural land was purchased by M/s Rajasthan Solar Processing Zone, Jodhpur (Firm) for establishing an industry at villages Sujasar and Galar, *Tehsil* Pokhran, District Jaisalmer. The firm had obtained an entitlement certificate from the competent authority to avail 50 *per cent* exemption of SD under the Rajasthan Investment Promotion Scheme, 2003.

Scrutiny of the sale deed, revealed that the land was purchased for industrial purposes and the cost of the land was ₹ 77.30 crore[12] as per the rates prescribed by RIICO. After allowing 50 *per cent* exemption, the stamp duty leviable amounted to ₹ 1.93 crore, however the SRs valued the land at ₹ 63.03 lakh[13] at the agricultural rates and levied SD of ₹ 7.01 lakh. This resulted in short realisation of ₹ 1.86 crore.

The matter was brought to the notice of the Department (December 2011) and reported to the Government (May 2012). The Government stated (October 2012) that the SR, Pokhran has been instructed to make reference against the executants. Further progress was awaited (November 2012).

5.13.3 During test check of records of SR, Chomu (Jaipur), it was noticed that 12 sale deeds were undervalued due to application of residential rates instead of commercial rates, rates of non-irrigated for irrigated land and

[10] (29.6 *bigha* x DLC rates ₹ 4,40,000 per *bigha* for agricultural land)
[11] (5,15,750 square feet x DLC rate 132 per square foot for residential land)
[12] (22,08,460 square metre x DLC rate ₹ 350 per square metre for Pokhran Industrial Area (under developed))
[13] (1364.35 *Bigha* x DLC rate 4,620 per *Bigha* for agricultural land)

second DLC rates instead of first DLC[14] rates *etc*. The under-valuation of the properties resulted in short levy of SD and RF amounting to ₹ 6.58 lakh.

The matter was brought to the notice of the Department (March 2012) and reported to the Government (May 2012). The Government stated (October 2012) that reference has been made against the executants to the DIG (Stamps), Circle Jaipur-II. Further progress was awaited (November 2012).

5.14 Non levy of SD on partition deed

As per Article 42 of the Schedule appended to the RS Act, 1998, SD on an instrument is leviable as a conveyance for the amount or value of the separated share or shares of the property. The note under the Article further clarifies that if the largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than that of the other shares, the one of such equal shares) shall be deemed to be that from which the other shares are separated.
Registration of such partition deed is compulsory under Section 17 of the Registration Act, 1908.

During test check of records of the SR, Jodhpur-I, it was noticed that a sale deed was executed between the seller and the purchaser for purchase of a plot in April 2010. Scrutiny of the recital of the sale deed, revealed that a partition deed was executed (June 2009) between co-owners of the property for partition of plot measuring 1,10,853 square feet situated at village Jhalamand, *Tehsil* Jodhpur.

The SR registered the sale deed without registering the partition deed in SR office. The market value of separated shares was ₹ 1.34 crore[15]. Thus, non-registration of this partition deed resulted in non-recovery of SD of ₹ 6.68 lakh at the rate of five *per cent*.

The matter was brought to the notice of the Department (December 2011) and reported to the Government (May 2012). The Government stated (October 2012) that reference has been made against executants to the Collector (Stamps), Jodhpur. Further progress was awaited (November 2012).

[14] The properties situated on the main road are charged with first DLC rates (which is higher) whereas properties away from main road are charged second DLC rates.
[15] (80914.95 square feet x DLC ₹ 165 per square foot)

5.15 Non-levy of SD on the document of transfer of lease by way of assignment

As per the circular issued (August 2004) by the IG (Registration and Stamps), Ajmer, documents executed as supplementary documents, *inter alia,* on change of legal status of the firm or change of partners or dissolution of partnership shall be categorised as 'transfer of lease by way of assignment'. Under Article 55 of the Schedule appended to the RS Act, 1998, in case of document of transfer of lease by way of assignment, the SD is leviable as a conveyance on the market value of the property which is the subject matter of transfer.

During test check of records of the SR, Sanganer-II, it was noticed that a sale deed was registered (June 2010) for a ready built flat in Athena Apartment, Jaipur between M/s. Sunshine Buildtech, Jaipur and a purchaser. Scrutiny of sale deed revealed that land measuring 4,182 square metre (on which Athena Apartment was built later on) belonged to two firms (M/s Kejariwal Resorts Private Limited, Vaishali Nagar, Jaipur and M/s Kejariwal Beverage Private Limited, Andheri (West), Mumbai). These two firms formed a new partnership firm with M/s Sunshine Buildtech on 16.07.2005. The two firms transferred/assigned this plot as their land investment to M/s Sunshine Buildtech, Jaipur. However, no SD was paid on this transfer of land to M/s Sunshine Buildtech, Jaipur.

The SR, Sanganer-II, while registering the sale deed of the flat between the purchaser and M/s Sunshine Buildtech, Jaipur did not levy the stamp duty earlier transfer/assignment of land by the two firms to M/s Sunshine Buildtech, Jaipur. This resulted in non-levy of SD of ₹ 49.45 lakh on transfer of the plot at the rate of five *per cent* on the market value of the property ₹ 9.89 crore.

The matter was brought to the notice of the Department (March 2012) and reported to the Government (May 2012). The Government replied (July 2012) that reference has been made against executants to Collector (Stamps), Circle Jaipur-II. Further progress was awaited (November 2012).

5.16 Non-recovery of irregularly exempted Stamp Duty

As per notification dated 13.02.2003, 100 *per cent* exemption was allowed on the SD payable on the instruments executed for the sale and purchases of land and properties in the Agro Food Parks developed by RIICO at Kota, Jodhpur and Sriganganagar for establishing industrial units therein.

During scrutiny of records of the SR, Jodhpur-III for the year 2010-11, it was noticed (January 2012) that the SR registered a sale deed (Document no. 9762 dated 6.07.2010) pertaining to industrial plots no. E-8, E-9 and G-234 to 236 measuring 12,057 square metres situated at Boranada Agro Food Park,

Jodhpur in favour of a second allottee[16]. It was observed that the original allottee[17] received 100 *per cent* rebate in Stamp Duty ₹ 11.19 lakh and the second allottee had also availed 100 *per cent* rebate in Stamp Duty ₹ 12.12 lakh for new investment. On scrutiny of recital of sale deed it was found that the original allottee of the said plots had availed the benefit of exemption in Stamp Duty ₹ 11.19 lakh under the notification dated 13 February 2003. However, the original allottee sold the allotted plots to the second allottee within six days from the date of first registration of plots in his name without establishing industrial unit which was a breach of condition of the notification dated 13 February 2003. Therefore, the SR should have recovered exemption amount of stamp duty ₹ 11.19 lakh along with interest ₹ 1.51 lakh[18] (till March 2011) before transferring the plots in the name of second allottee.

The Government replied (October 2012) that the matter is under consideration. Further progress was awaited (November 2012).

[16] Rajasthan Gum Pvt. Ltd.
[17] Sh. Gop Ram Ware Housing Pvt. Ltd.
[18] Interest has been calculated at the rate of 18 per cent per annum from the date of exemption.

CHAPTER-VI

STATE EXCISE

CHAPTER-VI: STATE EXCISE

6.1 Tax administration

State Excise revenue comprises receipts derived from any payment, duty, fee, tax, fine or confiscation imposed or ordered under the provisions of the Rajasthan Excise Act, 1950 and rules made thereunder. It also includes revenue from manufacture, possession and sale of liquor, bhang and lanced poppy heads. The Rajasthan Excise Act, 1950 empowers the Government to frame a periodical excise policy.

6.2 Trend of receipts

Receipts from state excise during the years from 2007-08 to 2011-12 along with the total tax receipts of the State during the same period have been exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts to total tax receipts
2007-08	1,750	1,805.12	(+) 55.12	(+) 3.15	13,274.73	13.60
2008-09	2,025	2,169.90	(+) 144.90	(+) 7.16	14,943.75	14.52
2009-10	2,200	2,300.48	(+) 100.48	(+) 4.57	16,414.27	14.02
2010-11	2,460	2,861.41	(+) 401.41	(+) 16.32	20,758.12	13.78
2011-12	2,950	3,287.05	(+) 337.05	(+) 11.43	25,377.05	12.95

Though in absolute terms, receipts of state excise have registered increase over the years but the percentage of revenue of State Excise Department to total tax revenue collection in the State has decreased when compared to the year 2007-08. During 2007-08, receipt of state excise accounted for 13.60 *per cent* of total tax revenue of the State. In the year 2011-12, these receipts accounted for 12.95 *per cent* of total tax receipts of the State.

6.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 amounted to ₹ 214.35 crore, of which ₹ 204.59 crore were outstanding for more than five years. It indicates that the Department had not taken effective steps for recovery of arrears. The following table depicts the position of arrears of revenue as on 31 March 2012:

(₹ in crore)

Year of arrear	Total arrears as on 1.4.2011	Addition during 2011-12	Recovery during the year 2011-12	Recoveries outstanding as on 31.3.2012
Upto 2006-07	216.94	-	12.35	204.59
2007-08	0.01	-	0.01	-
2008-09	0.05	0.04	-	0.09
2009-10	-	-	-	-
2010-11	0.40	9.27	-	9.67
Total	**217.40**	**9.31**	**12.36**	**214.35**

The chances of recovery of arrears of ₹ 204.59 crore outstanding for more than five years are bleak.

It is recommended that the Government may take appropriate action for early recovery of the arrears.

6.4 Cost of collection

The gross collection of the revenue receipts, expenditure incurred on collection of state excise revenue and the percentage of such expenditure to gross collection during the years 2007-08 to 2011-12 and the corresponding all India average percentage of the preceding year are as follows:

(₹ in crore)

Sl. no.	Year	Gross collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of the preceding year
1.	2007-08	1,805.12	48.51	2.69	3.30
2.	2008-09	2,169.90	64.46	2.97	3.27
3.	2009-10	2,300.48	85.74	3.73	3.66
4.	2010-11	2,861.45	87.45	3.06	3.64
5.	2011-12	3,287.05	82.92	2.52	3.05

6.5 Impact of Audit Reports

Cases of non/short levy, non/short realisation, under assessment/loss of revenue, application of incorrect rate of tax, incorrect computation of tax *etc.* with revenue implication of ₹ 104.29 crore in 16 paragraphs were pointed out through the Audit Reports of the past five years. Of these, the Department/ Government had fully/partly accepted audit observations in seven paragraphs involving ₹ 4.14 crore and had since partly recovered (as of September 2012) ₹ 3.31 crore in seven paragraphs as shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number of paragraphs	Amount
2006-07	5	19.88	-	-	-	-
2007-08	4	29.18	4	0.96	4	0.95
2008-09	4	45.44	2	0.42	2	0.42
2009-10	2	1.88	-	0.09	-	0.09
2010-11	1	7.91	1	2.67	1	1.85
Total	**16**	**104.29**	**7**	**4.14**	**7**	**3.31**

6.6 Working of Internal Audit Wing

Financial Advisor is the head of the Internal Audit Wing in State Excise Department. Two internal audit parties are working in the Department each

headed by an Assistant Accounts Officer. No audit plan showing units to be audited during the year was prepared by the Department. The position of last five years of internal audit was as under:

Year	Pending units	Units added during the year	Total units	Units audited during the year	Units remained unaudited	Percentage of units remained unaudited
2007-08	57	40	97	20	77	79
2008-09	77	40	117	29	88	75
2009-10	88	40	128	58	70	55
2010-11	70	40	110	83	27	25
2011-12	27	40	67	60	7	10

It was noticed that 847 paragraphs were outstanding at the end of 2011-12 of which 238 paragraphs were outstanding for more than five years. Year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	upto 2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	Total
Paras	238	25	74	119	391	-	**847**

Thus, the huge pendency defeated the very purpose of internal audit.

The Government may consider strengthening the functioning of the Internal Audit Wing in order to take appropriate measures for plugging the leakage of revenue and for compliance with the provisions of the Act/Rules. Appropriate instructions may also be issued to the Department for taking action on the reports of the Internal Audit Wing.

6.7 Results of Audit

Test-check of the records of 19 units of the State Excise Department conducted during the year 2011-12, revealed non/short recovery/loss of excise duty and licence fee and other irregularities involving ₹ 100.63 crore in 3,940 cases which fall under the following categories:

Sl. No.	Category	Number of cases	Amount (₹ in crore)
1.	Non/short realisation of excise duty and licence fee	532	94.76
2.	Loss of excise duty on account of excess wastage of liquor	2,000	0.74
3.	Other irregularities	1,408	5.13
Total		**3,940**	**100.63**

The Department accepted non/short realisation and other deficiencies in 3,415 cases involving ₹ 21.93 crore, of which 644 cases involving ₹ 2.90 crore had been pointed out in audit during 2011-12 and the others in earlier years. The Department recovered ₹ 2.76 crore in 2,641 cases of which 142 cases involving ₹ 0.24 crore had been pointed out in audit during the year 2011-12 and the rest in earlier years.

A few illustrative audit observations involving ₹ 2.01 crore are mentioned in the succeeding paragraphs.

6.8 Receipts from Sale and Consumption of Lanced Poppy Heads

6.8.1 Introduction

India is the largest licit producer of opium (*Papaver somniferum)* in the world, which is both exported as well as used by the domestic pharmaceutical industry. Opium is the source of many narcotics, including morphine (and its derivative heroin), thebaine, codeine, papaverine, and noscapine. The opium crop cycle runs from October to May. In the month of February-March, the opium capsule is ready for lancing or extraction of the latex (raw opium) by incision of opium capsule.

The Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 and Rules framed thereunder by the Government of India (GOI) regulate the cultivation of opium poppy plant. The Central Government notifies the permissible tracts of the tehsils/districts and the Central Narcotics Department (CND) grants licences to the cultivators. The raw opium from the crop is collected and controlled by the CND.



Opium Capsule

These opium capsules after extraction of raw opium are known as 'Lanced Poppy Heads' (LPH)/Poppy Straw/*doda*, whether in the original form, cut-crushed or powdered. The LPH is a restricted commodity and can be sold by licensed retailers only to those consumers who have consumption permits issued by the State Excise Department under NDPS Rules. The LPH is collected by the State Government as per section 10 of NDPS Act, 1985.

The State Government of Rajasthan has framed the Rajasthan Narcotic Drugs and Psychotropic Substances (RNDPS) Rules, 1985 to permit and regulate the possession, transport, import interstate, export interstate, warehousing, sale, purchase and consumption of LPH within Rajasthan.

As per Rule 26 of RNDPS Rules 1985, no person shall cultivate any Poppy straw except under licence by the Government of India under Rules which it may frame under sub-section (ii) of Section 9 of the NDPS Act, 1985. District Opium Officer of the CND, GOI, issues licences for production of opium or poppy straw in form no.1.

As per Rule 27 of RNDPS Rules 1985, every cultivator licensed under Rule 26 shall in each year submit by the 1st of April to the DEO of the area a true declaration in form 'C' in respect of the land in which he cultivated the Poppy and of the stock of LPH directly relatable to the crop produced by him and

shall also declare every building or place to be used by him for storing the same.

Wholesale licences are issued in form "NDPSL-7" under Rule 34(i)(a) of RNDPS Rules, 1985. The wholesale LPH licensee procures LPH directly from the farmers and stores it in non-duty paid bonded warehouses. Duty is paid by the wholesale licensee when LPH is transferred to wholesale godown of the wholesale licensee who alone can have a bonded warehouse.

Retail sale licences are issued in form "NDPSL-8" under Rule 34(i)(b) of RNDPS Rules, 1985. The retail LPH, licensee procures LPH from the wholesale LPH licensee on the basis of permits issued by the Department and after paying permit fees.

6.8.2 Scope of Audit

In Rajasthan, cultivation and production of opium is confined to seven districts[1], while consumption area of LPH is broadly spread over the jurisdiction of 10 District Excise Officers (DEOs)[2]. Out of these, records for the year 2009-10 and 2010-11 of four DEOs[3] of production and five DEOs[4] of consumption were test checked during February to May 2012. The DEOs were selected on the basis of maximum production and consumption of LPH.

The test-check was conducted with a view to ascertain the efficiency and efficacy of the Department in collection, sale, consumption of LPH, collection of excise duty and licence fee and other charges payable thereon was in accordance with Act/Rules, Manuals and annual State Excise policy. The findings of audit are mentioned in the succeeding paragraphs.

6.8.3 Revenue from LPH

Revenue from LPH is derived mainly in the form of licence fee realised from wholesale and retail licensees, excise duty and permit fees on the sale of LPH. The revenue realised during 2009-10 and 2010-11 is shown below:

(₹ in crore)

Collection year	Total excise revenue[5] collected	Revenue realised from LPH				Percentage of LPH revenue to total excise revenue
		Licence fees including renewal fees	Excise duty	Permit fees	Total	
2009-10	2300.48	67.84	5.94	0.68	74.46	3.24
2010-11	2861.45	77.47	6.96	0.80	85.23	2.98

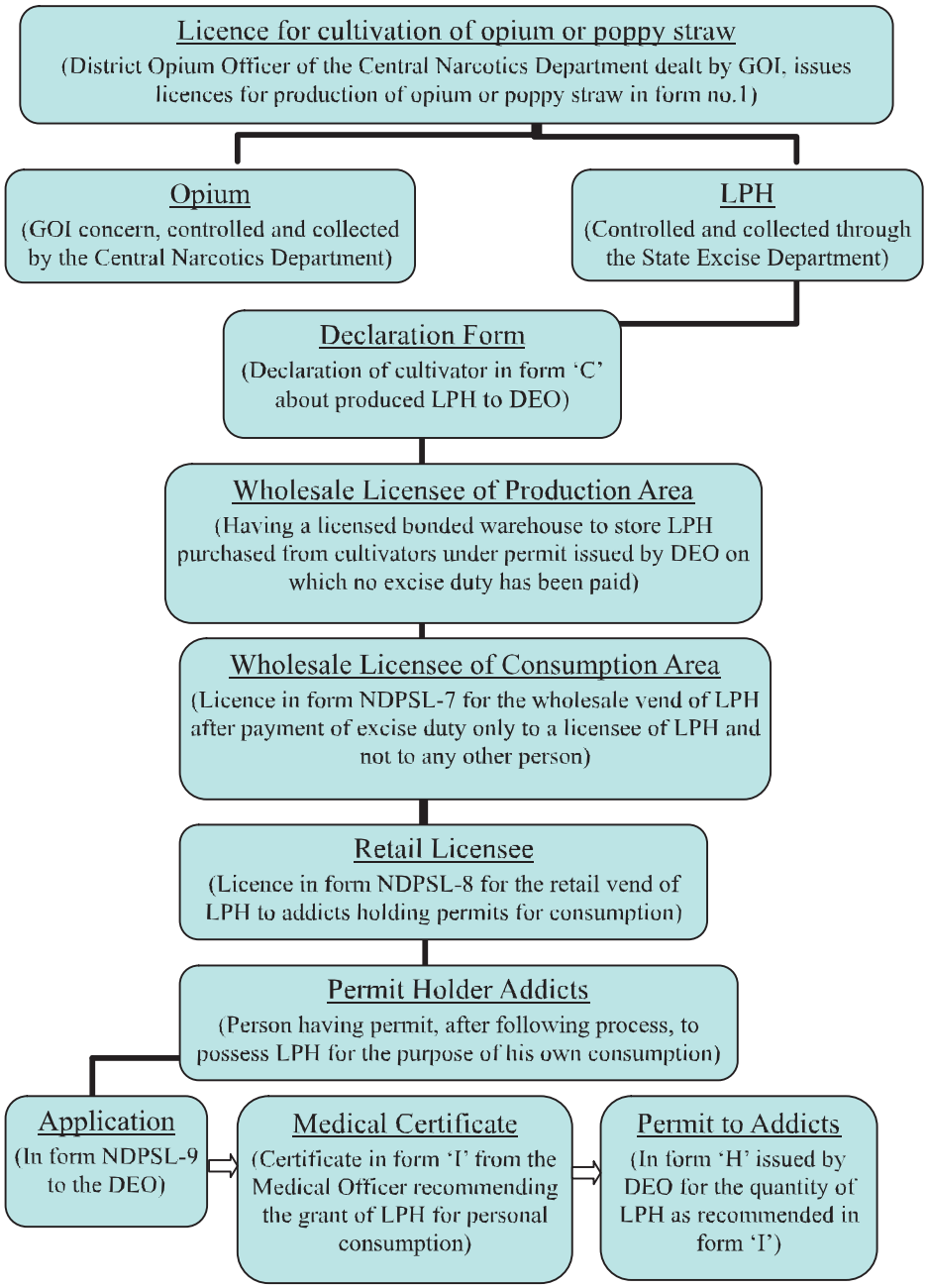
Source: Information provided by the Department.

As would be seen from the above, the revenue collection from LPH was very small as compared to the total excise revenue but since the leakages at various stages (i.e. during production, collection and sale) have far wider social and

[1] Baran, Bhilwara, Chittorgarh, Jhalawar, Kota, Pratapgarh and Udaipur.
[2] Ajmer, Barmer, Bikaner, Hanumangarh, Jaipur (Rural), Jhunjhunu, Jodhpur, Pali, Nagaur and Sriganganagar.
[3] Baran, Chittorgarh, Jhalawar and Pratapgarh.
[4] Barmer, Bikaner, Hanumangarh, Jodhpur and Sriganganagar.
[5] Including Country Spirits, Malt Liquors, Wine & Spirits, Commercial Spirits, Bhang, LPH, Duties etc. and Miscellaneous.

economic ramifications which are discussed in test-check of the records of the Department controlling the LPH collection and consumption in the State was taken.

6.8.4 Pictorial presentation of LPH production, collection and consumption



Audit findings

A. Declaration of total LPH production by the registered cultivators in form 'C'

6.8.5 Non-submission/collection of declaration forms

As per Rule 27 of RNDPS Rules 1985, every cultivator licensed under Rule 26 has to submit by 1st April of the year to the DEO of the area, a declaration in form 'C' in respect of the land on which he cultivated the opium poppy and of the stock of LPH directly relatable to the crop produced by him. The State Government issued (August 2004) directions to the Department to register offence against cultivators who fail to file such a declaration.

In pursuance of a request (July 2010) made by the Excise Department, the Department of Agronomy, Rajasthan College of Agriculture (MPUAT) Udaipur intimated (July 2010) the yield of LPH 500 to 600 kg per hectare in normal conditions.

Each year the State Excise Department (Department) receives list of licensed cultivators of opium from the Central Narcotics Department (CND). As per the information furnished (February to May 2012) by four DEOs[6], opium was cultivated in 13,789.75 hectares of land by 41,454 cultivators during the crop years 2008-09 and 2009-10. Out of these, only 28,695 cultivators had filed declaration forms with the Department showing production of 40,523.40 quintals of LPH in 7,389.91 hectares of land resulting 548 kg average production per hectare.

It was noticed in units test checked that the DEOs maintained a register showing the names of cultivators who had submitted declaration forms. But the names of the remaining 12,759 licensed cultivators was not mentioned in the register during the years 2009-10 and 2010-11 in respect of 6,399.84 hectares of land. As per the existing/minimum norms of the Department 31,999.20 quintals of LPH valued at ₹ 160 crore[7] should have been produced on this land. This LPH should have been collected and if not required, destroyed by the Department. Moreover, it was found that no offence case was registered in the offence register against any of the cultivators nor were any spot surveys / raids conducted by the Department. The Department also did not report about such defaulter cultivators to the CND and request them for taking and undertaking for submission of declaration forms by the cultivators. The possibility of illegal sale of 31,999.20 quintals of LPH with the approximate cost of ₹ 160 crore could not be ruled out. The DEOs had not monitored the submission of declaration forms from the remaining 12,759 licensed cultivators.

After being pointed out, the Government stated (August 2012) that LPH was purchased by the licensees as per the requirement. The cultivators had to sell

[6] Baran, Chittorgarh, Jhalawar and Pratapgarh.
[7] 31,99,920 kg LPH (approx. production) x ₹ 500(retail price of LPH)= ₹ 160 crore.

or destroy LPH by 31 July. Thereafter, a random physical verification was conducted by Excise Inspectors. In case of any default, offence case was registered against cultivators.

The reply is not in line with Rule 27 of RNDPS Rules, 1985 which stipulates that every cultivator is bound to submit a true declaration in form 'C' by 1st April to the DEO of the area. Further, there was nothing on record to indicate the number of raids/inspections conducted by the Department. Out of four DEOs selected, physical verification report was prepared only for one year period by Excise Inspectors of two DEOs i.e. Jahalwar and Baran. In the other two DEOs no physical verification report was found. A number of discrepancies (as discussed in paragraph 6.8.6) were found on physical verification conducted by these officers which indicates lack of credibility of departmental action.

The Department may set up a mechanism to ensure that the list of defaulter cultivators is reported to the CND, so as to enable them to reconsider the renewal of the licences of defaulter cultivators for opium cultivation for the succeeding crops.

6.8.6 Physical verification reports/'*panchanama firds'* made by Excise Inspector

As per circular issued (July 1977) by the Excise Commissioner, Udaipur, Excise Inspectors were to ensure that all the cultivators submit declaration forms within the prescribed time period.

The Excise Inspectors were to immediately check site of those cultivators who had not submitted declaration forms (100 *per cent*) within prescribed time period. The site of those cultivators who had submitted their declaration forms were to be checked to the extent of 10 *per cent*.

The information regarding physical verification conducted by the Excise Inspectors in respect of the cultivators that had not submitted the declaration forms was provided by only two DEOs i.e. Jhalawar (for only 2009-10) and Baran (for only 2010-11) out of four DEOs test checked. In the remaining two DEOs there was nothing on record to indicate that the Excise Inspectors had conducted the inspection in respect of defaulted case. Further, no format for physical verification report had been prescribed by the Department. Following discrepancies were noticed in the physical verification reports:

- Excise Inspector of DEO Jhalawar prepared two '*panchnama firds'* on the same date one for the cultivator and other for departmental use. The cultivator submitted the firds along with the declaration forms to the concerned DEOs. However, signatures of the cultivators on both the '*panchnama firds'* were different.

- Excise Inspector of DEO Baran, prepared 138 *'panchnama firds'* of 2,372 cultivators during LPH collection year 2010-11 but date of physical

verification or preparation of such '*panchnama firds*' was not mentioned therein. In the absence of the same, it could not be ascertained whether actual physical verification was done on the site and the year to which physical verification pertained. Further, in all the 138 *panchnama firds* the quantity of LPH found on physical verification and destroyed by cultivators was shown 'nil' whereas declaration forms of only 1,259 cultivators were submitted by the wholesale licensees of production area to the Department. Remaining 1,113 cultivators (out of 2,372) had not submitted declaration forms even though they were granted licences by the CND.

After being pointed out, the Government accepted the audit observation (August 2012) and directed the Department to ensure that date and quantity are necessarily mentioned in the physical verification reports.

These cases point towards the necessity of strengthening the controls of the Department over the physical verification of cultivators regarding confirmation of availability/non-availability of LPH after 31 July. The Department may prescribe a format for physical verification report.

6.8.7 Collection of declaration forms by the wholesale licensees instead of submission by cultivators

As per Rule 27 of RNDPS Rules, 1985, each licensed cultivator is required to submit his declaration by 1st April of the year to the DEO of the area.

6.8.7.1 During test-check of the declaration forms of cultivators accepted by four DEOs[8] it was noticed that all the declaration forms were submitted to the DEOs by the wholesale licensees of production area instead of the registered cultivators. The wholesale licensee while applying for permit for purchase of LPH enclosed the declaration forms obtained by him from the cultivators from whom he intended to purchase the LPH.

The Department was allowing the wholesale licensees of production area to collect the declaration forms from the licensed cultivators. The wholesale licensees of production area during the audit period of 2009-11 showed collection of LPH which was almost as per the requirement of LPH addicts in the State.

As the Department did not have independent mechanism to collect the declaration forms from the cultivators, the possibility that the wholesale licensees of production area collected declaration forms from all the licensed cultivators but did not submit the same to the Department and their collection of entire production of LPH cannot be ruled out. The succeeding paragraphs discuss the fact that the wholesale licensees as well as the retail licensees traded in loss during the year 2009-11 which also raises the doubt on the machinery adopted by the Department in collection and disposal of LPH in the State.

After being pointed out, the Government stated (August 2012) that as a practical measure, the collection of declaration forms was assigned to the

[8] Baran, Chittorgarh, Jhalawar and Pratapgarh.

wholesale licensees. However, the fact remains that deviation from the prescribed Rule 27 of RNDPS Rules, 1985 has resulted in irregularities as mentioned in succeeding paragraphs.

6.8.7.2 Declaration forms bearing signatures of persons other than the cultivators

Inconsistency was found in 143 declaration forms in Pratapgarh district involving 28,475 kg LPH and 125 declaration forms in Chittorgarh district involving 18,090 kg LPH as these forms were submitted with the names of cultivators but signatures of other persons. It was also found that several declaration forms were submitted with signature of relatives of the cultivators. The same were accepted by the Department. Thus, proper cross check on declaration forms was not exercised before issue of permits to wholesale licensees for collection of LPH by the Department.

After being pointed out, the Government accepted (August 2012) that the Department was accepting declaration forms from the relatives of the cultivators due to unavailability of the cultivators on site. However, in future strict vigil will be ensured regarding signature, mention of status of the relationship and other irregularities pointed out by the audit.

6.8.8 Acceptance of incomplete declaration forms

The farmer in declaration form should mention area of the land on which he has cultivated the opium poppy and stock of LPH directly relatable to the crop produced by him. He should also declare every building or place used or to be used by him for storing LPH mentioning the crop year and date of submission of form.

Scrutiny of declaration forms submitted by the wholesale licensees of production area for obtaining permit to collect LPH from DEOs during the year 2009-10 and 2010-11 revealed the following:

- Signatures of cultivators on declaration forms were not found in three cases of two villages in Pratapgarh district involving 460 kg LPH and in 30 cases of 13 villages in Chittorgarh district involving 3,940 kg LPH.
- 13 out of 25 declaration forms of two villages in Chittorgarh district were having only thumb impressions without mentioning any mark/name of cultivators to prove authenticity of thumb impression.
- 17 out of 19 declaration forms of a village in Jhalawar district and one out of seven declaration forms of a village in Baran district did not contain details regarding quantity of LPH produced by the cultivators. The Department *suo motu* recorded in its registers[9] the LPH quantity of 1295 kg and 120 kg respectively in these cases. This was done without any verification from the cultivators.

[9] Register maintained in the DEO offices having details of cultivators with produced quantity of LPH whose declaration forms had been accepted and permits were issued to the wholesale licensee of production area for collection of LPH.

- All the 33 cases of two villages in Jhalawar district and all the 8 cases of four villages in Baran district were accepted with overwriting in the quantity of LPH as mentioned in declaration forms in which figures were shown as either excess or short. Inspite of the overwriting, permits for collection of LPH were issued to the wholesale licensees of the production area. It was also noticed that the signatures of Excise Inspector in token of acceptance of declaration were also not found in the above 8 cases of Baran district, though the same was required to ensure that the declaration forms had been checked before acceptance.
- All the 143 declaration forms from 7 villages of Chittorgarh district were accepted without mentioning the crop year and date of submission of the declaration forms. In absence of any date, it could not be ensured that these declaration forms were received in prescribed period.
- In 17 out of 25 declaration forms from two villages in Chittorgarh district and in the remaining 8 declaration forms from four villages in Baran district, the building or place, used or to be used for storing the LPH was not mentioned. In absence of this, the Department could not exercise physical verification of LPH stock with the cultivators.
- In two villages of Jhalawar district 13 cultivators submitted two declaration forms, However, two different quantity of LPH were shown to have been produced in each forms produced by them. The Department accepted both forms and issued permits for collection of the LPH without any verification.
- There was difference in quantity of LPH mentioned in the declaration forms and quantity shown in the registers maintained by the Department. For example, 97 kg LPH was shown excess in the registers than as declared by two cultivators of Jhalawar district and permit was issued to the wholesale licensee with excess quantity by the Department as detailed below:

(Quantity in kg)

Sl. No.	Name of cultivator	Village/ Tehsil	Area (in Are)	Declared quantity	Quantity shown in registers	Excess quantity
1	Bhole Singh/ Bhawani Singh	Harnawda/ Gangdhar	30	44	76	32
2	Chandri Bai/ Bala Ram	Semlia/ Pidawa	30	56	121	65
Total						**97**

Source: Information collected from the DEO, Jhalawar.

After being pointed out, the Government accepted the observations (August 2012) and directed the Department to ensure that such mistakes do not recur in future.

The foregoing findings indicate that while the Department worked towards granting permits to the wholesale licensees, it lacked in its focus on verification of the genuineness of the details given in the declaration forms. Therefore, permits were issued on such declaration forms which were incomplete, unsigned and probably fictitious.

The Department may adopt a suitable check mechanism for improvement or institutionalisation of a system for avoiding such lapses.

6.8.9 Non-collection of LPH from the cultivators whose declaration forms had been accepted

The cultivator may keep produced LPH upto 31 July of the year and within this period he shall either sell or destroy by burning the LPH left unsold in his possession. LPH can be sold by cultivators only to the LPH wholesale licensees having bonded warehouse after permit is issued by the DEO.

During test-check of the declaration forms accepted by DEO, Chittorgarh for the year 2010-11, it was noticed that declaration forms of 224 cultivators related to nine villages of Rashmi, three villages of Kapasan and two villages of Gangrar tehsils involving 37,953 kg LPH valued at ₹ 1.90 crore[10] involving excise duty of ₹ 13.28 lakh[11] were accepted by the Department. This quantity of LPH was also found entered in the registers maintained by the Department. But neither any permit for collection of LPH was found issued to the wholesale licensee by the DEO, Chittorgarh nor any record evidencing the burning of the LPH by cultivators was found. Possibility of illegal sale of LPH can not be ruled out and needs investigation by the Department.

After being pointed out, the Government stated (August 2012) that the wholesale licensee of Kapasan-Rashmi group had collected 314.53 quintal LPH from the cultivators of Rashmi and Kapasan tehsils in his bonded warehouse Kapasan and the wholesale licensee of Chittorgarh-Gangrar group had collected 65.00 quintal LPH from the cultivators of Gangrar tehsil in his bonded warehouse Jojro Ka Kheda. On physical verification (20.6.2010 to 25.6.2010) of the bonded warehouses, the Department found that 444.76 quintal LPH in Kapasan bond and 127.01 quintal LPH in Jojro Ka Kheda bond were in excess of the registered quantity in the stock. Cases against both the licensees were registered (12.07.2010) and compounded (27.09.2010) by Addl. Excise Commissioner, Excise Zone, Udaipur with amount ₹ 5.25 lakh on each licensee for illegal collection of LPH. Excise duty at twice the rate, amounting to ₹ 40.02 lakh[12] on excess stock was also recovered from both the licensees and bond facilities were withdrawn with immediate effect.

It was found that cases were registered by the Department against the licensees under section 26D and 32 of NDPS Act, 1985 and Rule 43(2) of RNDPS Rules, 1985, in which licences should have been cancelled as per condition number 6 of the licence as the offence was serious in nature. The above facts indicate that the Department had not taken action at the time declaration forms were received so that illegal collection could have been avoided.

[10] Quantity of LPH 37,953 kg x retail sale price of LPH @ ₹ 500 per kg = 189.77 lakh.
[11] Quantity of LPH 37,953 kg x excise duty @ ₹ 35 per kg = ₹ 13.28 lakh.
[12] 44,476 kg +12,701kg =57,177 kg x ₹ 70= ₹ 40,02,390.

6.8.10 Collection of un-lanced[13] poppy heads by the wholesale licensee of production area

Opium crop may suffer some damage due to natural calamity. To give relief from natural calamities, cultivators are allowed to get their unlanced damage crop uprooted partially or fully under the supervision of the CND. For each partial and full uprooting, *panchnama* is to be drawn and entry made in the joint as well as individual licence.

According to Rule 34 of the RNDPS Rules, 1985 licences are issued for collection and sale of only lanced poppy heads as required in Rule 32 and not for collection and sale of un-lanced poppy heads.

During test-check of the declaration forms accepted by DEOs, Chittorgarh and Jhalawar for the crop year 2009-10, it was noticed that the Department accepted the declaration forms submitted by the wholesale licensee of production area of such cultivators whose crop was fully uprooted due to poor crop or otherwise. Entries to this effect as "un-lanced poppy heads fully uprooted, balance nil" were mentioned in the cultivators' record maintained by village *Lambardar*[14], copies of which were enclosed with declaration forms. In such condition without lancing opium straw should not be collected by the licensee and it should have been destroyed.

Sl. No.	Name of DEOs	Number of cultivators	Quantity of un-lanced poppy heads collected (in kgs)
1.	Chittorgarh	23	2,605
2.	Jhalawar	139	9,155
Total		**162**	**11,760**

Source: Information collected from the DEOs Chittorgarh and Jhalawar.

However, the Department issued permit to the wholesale licensees of production area for collection of 11,760 kg un-lanced poppy heads in contravention of rules and breach of the conditions of licence[15].

After being pointed out, the Government stated (August 2012) that the CND had not provided the list of cultivators whose crops were uprooted, hence the Department accepted the declaration forms as per the earlier list of the cultivators.

The Department may put in place a system of obtaining the list of cultivators whose crops have been uprooted from the CND and ensure that only LPH is collected by the wholesale licensees.

[13] The opium capsules before extraction of raw opium

[14] The District Opium Officer of the CND may designate one of the cultivators of opium as *Lambardar* in each village who shall make arrangements to weigh opium produced daily before him by cultivator and make necessary entries in the records to be maintained by him as may be specified by the Narcotics Commissioner in this behalf (Rule 10 and 13 of the NDPS Rules, 1985).

[15] Licence is issued in form NDPSL-7 to wholesale licensees for the wholesale vend of LPH.

6.8.11 Lack of control over destruction of unsold quantity of LPH

According to the RNDPS Rules, 1985, each cultivator of opium has to either sell LPH or destroy it by 31 July of the year.

During test-check of the records of DEOs Baran, Chittorgarh, Jhalawar and Pratapgarh, it was noticed that information of unsold quantity of LPH was not furnished by any of the cultivators to the Department. As mentioned in para 6.8.7, the declaration forms having details of LPH produced were submitted by the wholesale licensee instead of the cultivators. As a result, the Department was not having any information on excess or unsold quantity of LPH with the cultivators and consequently had no information on such LPH being destroyed, if not sold, by 31 July.

It was noticed that the RNDPS Rules, 1985 did not provide any procedure by which the licensed cultivator should declare LPH sold or burnt by him after 31 July. The Department also did not prescribe any guidelines or instructions for the same. For exercise of proper and effective control on the disposal of LPH, the Department should have prescribed annual return to be furnished by the cultivator regarding the quantity produced, quantity sold and quantity destroyed by him immediately after 31 July of the year.

After being pointed out, the Government stated (August 2012) that there is no provision in the rules for submission of certificate or annual return regarding destruction of balance LPH by cultivators after 31 July. However, proposal in this regard is being sent to the Government for direction.

The Department may consider putting in place a system to monitor the destruction of unsold LPH by introducing regular returns to be submitted by the cultivators immediately after 31 July regarding the quantity sold and destroyed by them.

6.8.12 Trading of LPH in loss by the wholesale and retail licensees

The annual licence fees of each LPH group (wholesale and retail) is based on the revenue potential of the group in terms of the number of registered consumers of LPH and also on the basis of previous year's obtained price. Applications are invited with non-refundable application fees for the group and licences are granted by adopting lottery system. The annual licence fee is in fact the sitting cost for the licensee that permits him to procure LPH and trade in the same.

The Department realised revenue of ₹ 159.69 crore from the wholesale and retail licensees during the years 2009-10 and 2010-11 in terms of licence fee, renewal fee, excise duty and permit fee etc from LPH groups/licensees which were same during both the years

as detailed below:

(₹ in lakh)

Year	Revenue realised by the Department from LPH licensees						
	Licence fee				Excise duty @ ₹ 35.00 per kg	Permit fees @ ₹ 4.00 per kg	Total revenue realised (4+5+6+7)
	Licence fee of production area	Licence fees of consumption area	Total (2+3)	Licence renewal fees (1% of col. 4)			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2009-10	2,411.67	4,372.75	6,784.42	NA	593.53	67.83	**7,445.78**
2010-11	3,014.59	4,656.14	7,670.73	76.71	696.03	79.55	**8,523.02**
Total	**5,426.26**	**9,028.89**	**14,455.15**	**76.71**	**1,289.56**	**147.38**	**15,968.80**

Source: Information provided by the Department.

The Licensees incurred expenditure of ₹ 69.20 crore on purchase of LPH from cultivators, VAT, transportation and handling charges *etc.* as mentioned below:

Year	Actual supply of LPH to addicts (in MT)	Expenditure incurred by the licensees[16]					
		Purchase price of LPH from cultivator		VAT on total amount realised by the licensees		Transportation and handling charges @ ₹17.82 (9.90+ 7.92) per kg	Total expenditure (4+6+7) (₹ in lakh)
		Rate per kg (in ₹)	Total Price (2x3) (₹ in lakh)	Rate (in %)	VAT amount (₹ in lakh)		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2009-10	1,695.81	100	1,695.81	14.00	1,187.07	302.19	**3,185.07**
2010-11	1,988.67	100	1,988.67	14.00	1,392.07	354.38	**3,735.12**
Total	**3,684.48**		**3,684.48**		**2,579.14**	**656.57**	**6,920.19**

Source: Information provided by the Department.

The above tables reveal that the licensees incurred expenditure of ₹ 228.89 crore on licence fee, purchase price excise duty, VAT, transportation and handling charges etc. during both the years whereas the total amount realised by the licensees from sale of LPH, as detailed below, was only ₹184.22 crore resulting in a clear deficit of ₹ 44.67 crore

Year	Total Amount realised by the licensees from sale of LPH				
	No. of addicts	Require-ment of LPH (in MT)	Actual supply of LPH to addicts (in MT)	Rate per kg (in ₹)	Total Amount realised (4x5) (₹ in lakh)
(1)	(2)	(3)	(4)	(5)	(6)
2009-10	27,215	2,271.68	1,695.81	500.00	**8,479.05**
2010-11	26,585	2,250.83	1,988.67	500.00	**9,943.35**
Total	**53,921**	**4,522.51**	**3,684.48**		**18,422.40**

Source: Information provided by the Department.

[16] On the basis of purchase price, VAT, Transportation and handling charges decided by the State Government in the Excise Policies 2009-10 and 2010-11.

The losses incurred by the licensees in both the years indicate that the licensees were trading in loss. As such, possibility of their involvement in illicit trade of LPH to cover up their losses can not be ruled out as no business will be carried out incurring losses.

The Department fixed the annual licence fees of LPH groups at higher side even though there was fixed price for purchase and thereafter sale of LPH to the permit holder addicts. It was noticed that the same groups renewed their licences for the year 2010-11 at higher price than previous years' obtained price but the Government/Department did not analyse as to how the licensees were paying and incurring expenditure over their reported income from the sale of LPH which was required to be sold only to the permit holder addicts and on fixed sale price.

After being pointed out, the Government stated (August 2012) that the Department was not responsible for the profit and loss of licensees. Further the loss of licensees pointed out by audit was not acceptable by the Department. Since social aspects are involved in the trade, the chances of illegal trade to cover the loss incurred by licensees could not be ruled out. The Government/Department may analyse the previous years' transactions of the licensees before renewal of their licences to control the illicit trade of LPH.

It is recommended that the Government may consider putting in place a suitable control mechanism to monitor issue of licences of LPH by inviting tenders.

6.8.13 Non-recovery of licence transfer fee

Rule 35(2) of RNDPS Rules, 1985 read with Rule 72 (B) of the Rajasthan Excise (RE) Rules, 1956 envisage that every licence shall be deemed to have been granted or renewed personally to the licensee and no licence shall be sold or transferred without obtaining the prior permission in writing from the licensing authority, Excise Commissioner (EC) in case of LPH wholesale, and this permission will be accorded after the payment of fifty *per cent* of licence fee by the licensee.

During test-check of the licence files of LPH groups at EC Office, Udaipur for the period 2009-10 and 2010-11 it was noticed that LPH wholesale licence of Chittorgarh-Gangrar group under the jurisdiction of DEO, Chittorgarh for the year 2010-11 was renewed in the name of co-licensee instead of the name of original licensee without depositing of ₹ 49.13 lakh[17] as licence transfer fee.

After being pointed out, the Department accepted the audit observation (June 2012) and directed the DEO, Chittorgarh to recover the licence transfer fees from the original licensee of 2009-10.

[17] Fifty *per cent* of licence fee of the group i.e. ₹ 98,26,250 = ₹ 49,13,125/-

6.8.14 Possession of more than 500 kg of LPH by retail licensees

As per Rules 32 and 33 of the RNDPS Rules, 1985, no person shall sell LPH except who holds a licence in form NDPSL-8 for the retail vend of LPH issued under Rule 34(1)(b) of the Rules ibid.

Condition No. 2 of retail licence of NDPSL-8 envisages that the licensee shall not have in his possession at any time more than 500 kg of LPH.

During test-check of retail sale registers of LPH submitted by retail licensees to DEOs, Barmer and Hanumangarh for the period 2009-10 and 2010-11, it was noticed that eight (out of 25) retail licensees during 2009-10 and two (out of 25) licensees during 2010-11 of Hanumangarh district and three (out of 22) retail licensees during 2009-10 of Barmer district kept in their possession LPH in quantity more than the prescribed limit of 500 kg at a time in contravention of the above stated licence condition. Of these a few cases are mentioned below:

Sl. no.	Name of DEOs	Year	Name of retail licensees	Date	Quantity of LPH at a time (in kg)
1	Hanumangarh	2009-10	Peelibanga	08.05.2009	590
			Sangriya	08.05.2009	590
			Tibbi	23.01.2010	660
		2010-11	Sangriya	06.08.2010	590
			Bhadra	20.07.2010	690
2	Barmer	2009-10	Gudamalani	27.04.2009	580
			Ghohatan	26.06.2009	724
			Sindhari	28.04.2009	660

It was noticed that the Excise Inspectors had verified the retail sale registers but had not pointed out to the licensees who were keeping more than 500 kg of LPH at a time.

After being pointed out, the Government stated (August 2012) that after deduction of sale of the specified dates, balance LPH was upto the limit of 500 kg with the retail licensees. However, the fact remains that the licensees had more than 500 kg of LPH at a time. This was in contravention of the condition number "2" of retail licence of LPH which envisaged that the licensees shall not have in his possession at any time more than 500 kg of LPH either before or after the sale of the LPH.

B. Status of LPH addicts in the State

Retail sale of the LPH against permits is allowed to addicts only by the retail licensees of LPH. EC directed (February-march) each year after 2001-2002 that no new permits for addicts may be granted for consumption of LPH by the Department, only renewal of the existing permits of addicts was being allowed. The number of registered addicts and consumption of LPH in the

State during the year 2009-10 and 2010-11 is detailed below:

Collection Year	Number of addicts	Consumption of LPH (in kg)
2009-10	27,215	16,95,810
2010-11	26,585	19,88,670

Source: Information provided by the Department.

Deficiencies noticed in renewal of permits of addicts are mentioned in the succeeding paragraphs:

6.8.15 Renewal of permits of addicts

As per directions issued by EC every year at the time of renewal of permit, no new permit except renewal of existing permits were allowed to be granted by DEOs. On receipt of application in form NDPSL-9 for renewal of permit, the DEO may renew the permit, on receipt of a fee of ₹ 50 per year or part thereof, for such quantity of LPH as recommended by the Medical Officer.

During test-check of the files related to permit renewal of addicts in five DEOs[18] it was noticed that 1,040 permits during 2009-10 and 1,091 permits during 2010-11 were renewed after depositing permit fees ₹ 150 to ₹ 1,000 from an addict. It was noticed that these permits were renewed after 3 to 20 years by depositing lump sum permit fees. Though there was no provision in the rules for renewal of permits after lapse of more than one year, these inactive permits were made operative in contravention of rules.

At the time of renewal of these permits, the Department did not ask the addicts about the source from where they had purchased the LPH during the period in which their permits were not renewed.

Maximum limit for personal consumption of LPH by an addict was 10 kg per month fixed by the Department. Even if half the quantity i.e. five kg per addict per month as an average consumption is considered, the following table shows that the quantity of LPH 1,278.60 quintal amounting to ₹ 714.96 lakh was purchased by these addicts from grey market during year previous to the renewal year of permits itself.

Year	No. of permits renewed after lump sum fees	Average consumption per addict per month (in kg)	Previous year	Total consumption during previous year (in kg)	Retail rate of LPH per kg. during previous year	Value of LPH in Grey market during previous year (₹ in lakh)
2009-10	1040	5	2008-09	62,400	621.25	387.66
2010-11	1091	5	2009-10	65,460	500.00	327.30
Total				**1,27,860**		**714.96**

Source: Calculation based on the information provided by the Department.

After being pointed out, the Government stated (August 2012) that renewal of permits of addicts for more than one year was done by the concerned DEOs

[18] Barmer, Bikaner, Hanumangarh, Jodhpur and Sriganganagar

due to migration of permit holder addicts for their personal work or for de-addiction. Further renewal of such permits during 2009-10 and 2010-11 was done by DEOs in compliance of the ECs' orders dated 19.03.2009 and 11.03.2010.

The reply is not tenable as the cases pointed out by audit pertain to renewal of permits after 3 to 20 years. Renewal of permit after one year should be treated as a fresh case and action should be taken accordingly. Further, the ECs' order cited by the Government is not relevant in these cases as the order was issued for renewal of permits wherein the Medical Officer had recommended granting of LPH for the future period. However, in the cases pointed out by audit, no such recommendation was made by the Medical Officer in the permits for granting LPH in succeeding years.

6.8.16 Renewal of permits without obtaining recommendation of Medical Officer in Form 'I'

Proviso (a) of Rule 44 (2) of RNDPS Rules, 1985 envisages that no such permit shall be granted or renewed except on the production of a certificate in Form 'I' issued by a Medical Board or Medical Officer, as the case may be, in the manner provided in Rule 45 in which the Medical Officer shall also prepare a record of the medical examination of the addicts in Form 'M'. The Medical Officer shall record his opinion clearly and explicitly in Form 'I' as to whether the applicant is required to use LPH as a medical necessity.

According to the Rule 44, permits to addicts of LPH, for the purpose of their own consumption, are issued in Form 'H' by the DEO for such quantity as may be recommended by the Medical Officer in Form 'I'.

During test-check of the permits of addicts renewed by DEO, Bikaner for the period 2009-10 and 2010-11, it was noticed that all permits to addicts during both years were renewed without obtaining recommendations of Medical Officer in Form 'I'. However, Medical Examination reports of addicts in Form 'M' made by the Medical Officer were enclosed with renewal of permits in which no specific quantity of LPH for consumption was recorded by the Medical Officer. It was noticed that the Medical Officer continuously recommended the consumption quantity of LPH 'as per previous norms' on the Form 'M' (set language printed) instead of issuing the Form 'I'.

After being pointed out, the Government stated (August 2012) that in future permits of addicts will be renewed after obtaining the recommendation of Medical Officer in Form 'I'.

It is recommended that Government may issue instructions to the Medical Officers not to issue Forms 'M' in a routine manner without actually looking into the possibility of de-addiction in each case and the Department may renew permits only after obtaining the recommendation of Medical Officer in Form 'I'.

6.8.17 Non-adherence to advice of Medical Officer to regulate the quantity of LPH for consumption

As per Rule 45(3) of RNDPS Rules, 1985, an addict shall submit application in Form NDPSL-9 to the concerned DEO for renewal of his permit (Form 'H') along with a Medical Certificate (Form I) in which Medical Officer recommends the quantity of LPH for consumption.

6.8.17.1 During test-check of the permits of addicts renewed by DEOs, Hanumangarh and Sriganganagar, it was noticed that the Medical Officer advised for deduction of a certain quantity of LPH per quarter in Medical Certificate issued to addicts as detailed below:

Name of DEOs	No. of Addicts	Deduction per quarter as per the 'I' forms
Sriganganagar	31	400 grams to 1 kg
Hanumangarh	21	500 grams to 30 kg

Source: Information collected from DEOs.

But the DEOs renewed the permits of addicts without mentioning the reduction in quantity recommended by the Medical Officer. As a result, the quota of concerned retail LPH shop remained the same.

After being pointed out, the Government stated (August 2012) that proviso under sub rule (vii) of rule 45 of RNDPS Rules, 1985 had been removed vide notification dated 30.08.1990 in which 1/8th quarterly reduction of LPH was mentioned. So the point of deduction of LPH quantity in medical certificate was not considered at the time of renewal of permits.

However, the fact remains that the recommendation of the Medical Officer on the quantity required by the permit holder addicts was based on the examination of the addicts. Therefore, renewal of the permits by the Department without consideration of the requirement of LPH by the addicts seemed more in interest of the retail licensees than in the de-addiction. The Department should renew the permits as per the recommendation of Medical Officer.

The Department may consider the recommendation of Medical Officer regarding deduction of LPH which will help him in de-addiction. Further, the Government may reintroduce the proviso regarding quarterly reduction of LPH.

6.8.17.2 The monthly consumption of each addict is prescribed by a Medical Officer. Based on this, retail licensees sell LPH to addicts subject to prescribed limit. During test-check of the retail sale registers of 14 retail LPH shops of four DEOs[19], it was noticed that between two and nine kg LPH was sold in excess of the monthly consumption quantity prescribed by the Medical Officer to a permit holder addict.

After being pointed out, the Government stated (August 2012) that the name of retail LPH shop, from which addicts will purchase LPH, is being mentioned on the permits and retail licensee is bound to sell LPH only to the concerned permit holder addicts.

[19] Barmer, Bikaner, Jodhpur and Sriganganagar.

The reply of the Government is not relevant to our observation which relates to sale of LPH by the retail licensee to a permit holder addict in excess of prescribed monthly consumption quantity.

The Government may direct the Department to cancel/ revoke licences of those retail licensees who violate the conditions prescribed in the licence to prevent the sale of LPH to unauthorised persons and spread of LPH addiction in the society.

6.8.18 Issue of two permits/p ermits bearing the same permit number to more than one addict

As per Rule 44(2) of RNDPS Rules 1985, LPH can be purchased by holder of valid permit in Form 'H' issued by the competent authority.

6.8.18.1 During test-check of the records of DEOs, Barmer (2 cases) and Hanumangarh (7 cases) for the years 2009-10 and 2010-11, it was noticed that two permits were issued to an addict. The Department did not check the details such as father's name, address etc of the addict before issuing/renewal the permit so that the addict could not purchase LPH through two permits from two different or same retail shop of LPH. This clearly indicates the negligence of the DEOs in issuance of permits to the addicts.

6.8.18.2 During test-check of the records of DEOs, Hanumangarh and Jodhpur for the years 2009-10 and 2010-11, it was noticed that permits with the same number were issued to two or three addicts as detailed below:

Name of DEOs	Year	No. of same permit issued to	
		Two addicts	Three addicts
Hanumangarh	2009-10	124	2
	2010-11	128	3
Tiwari, Jodhpur	2009-10	7	-
	2010-11	5	1

Source: Information collected from DEOs.

This proves that the DEOs need to be more vigilant while issuing permits to the addicts.

After being pointed out, the Government stated (August 2012) that permits of addicts were issued during 1996-97, 1999-2000 and 2001-02 starting from serial number one, so two or three addicts could have been allotted the same number. However, the name of addicts and year were different. The Government further stated that presently new numbers are allotted at the time of renewal of permits to ensure that two permit holder addicts do not have the same number. However, the reply was silent about audit observation on sub para (i) in which two permits were also issued to the same addict having the same details such as father's name, address etc.

The Department may computerise the data of permit holder addicts and retail shops for better monitoring of permits and lifting of LPH by each addict and the retail shop.

6.8.19 Non-maintenance of records for returning the permits to addicts after renewal

As per direction of the Excise Commissioner the DEOs are required to return the permits after their renewal only to the addicts and not to retail licensees.

During test-check of permit renewal records of DEOs Barmer, Bikaner and Sriganganagar for the years 2009-10 and 2010-11, it was noticed that registers, in which signature/thumb impression of addicts should be taken in token of returning the permits only to addicts after renewal, was not maintained by the DEOs during the year 2009-10. During 2010-11, though registers were maintained by the DEOs, but these were incomplete and only a few entries were found made in the registers.

In absence of these registers, it could not be ensured that all the renewed permits were handed over to the concerned addicts only.

After being pointed out, the Government accepted the fact (August 2012) that after renewal of permits at DEO office or Camp, the same were returned to permit holder addicts and no separate receipts were recorded. The reply, however, did not address further action required to be taken by the Department for obtaining receipts.

C. Sale of LPH to addicts

6.8.20 Sale of LPH to addicts before renewal of their permits

During test-check of the retail sale registers and permit renewal records of DEO, Barmer for the year 2009-10, it was noticed that LPH was sold by the retail licensees to the addicts even before renewal of their permits which falls in the category of illegal sale. For example, permit renewal fees of 22 addicts of Gandhav and 96 addicts of Gadra retail LPH shops were deposited in the Government Account on 15.04.2009 and 22.04.2009 respectively. Illegal issue of 168 kg LPH to 112 (out of 118) such addicts from 12.04.2009 and 13.04.2009 were also found.

After being pointed out, the Government stated (August 2012) that LPH was sold before renewal of permits because these permits were in the process of renewal.

The Department may put in place a system for renewal of permits within a time limit and ensure that LPH cannot be sold to addicts before renewal of their permits.

6.8.21 Illegal sale of LPH to person not in possession of permit by retail licensees

Condition No. 6 of retail licence for sale of LPH envisages that the licensee shall keep in ink a true daily account showing the receipt and sale of LPH each day and the balance in stock. He shall also show the name, father's name and residence of each purchaser of one kg LPH and upwards.

During test-check of retail sale registers of LPH at DEO, Barmer for the year 2009-10, it was found that 1,350 kg LPH amounting

to ₹ 6.75 lakh[20] was sold to 643 persons who were not in the list of permit holder addicts of concerned retail shop as shown in the table below:

Sl. No.	Name of retail licensee/shop	No. of person entered other than addict	Quantity of LPH involved (in kg)
1	Gandhav	134	239
2	Sandari	297	687
3	Siwana	40	80
4	Sanwara	48	96
5	Sata	124	248
Total		**643**	**1,350**

Source: Information collected from DEOs.

It was observed that the Excise Inspectors had signed on these registers test checked by audit in token of having verified the facts; however they failed to monitor the sale to permit holder addicts.

After being pointed out, the Government stated (August 2012) that LPH was purchased by permit holder addicts from other retail shops due to non-availability of LPH at their prescribed shop.

The reply is not tenable as quota of LPH is fixed for each shop according to their sanctioned addicts and shops are allowed to sell LPH to their authorised addicts. The reply that these persons were permit holder addicts of some other retail shop also could not be ascertained as no records were maintained by the retail licensees to show that sale was made to permit holder addicts of other recognised retail shops.

6.8.22 Fraudulent entries in the retail sale registers

During test-check of the retail sale registers of LPH, it was noticed that the retail licensees were not maintaining their sale registers properly and accurately.

Condition No. 4 of retail licence envisages that LPH shall not be sold in quantity exceeding two kg to an individual/addict at any time in a day. It means, a retail licensee can sell LPH in a day upto quantity twice of addicts sanctioned for the shop.

6.8.22.1 During test-check of retail sale registers of LPH at DEOs, Barmer and Bikaner, it was noticed that 27 retail licensees sold 2,232 kg LPH in excess of the quantity of permit holder addicts sanctioned for the shop in a day against norms prescribed in licence condition:

Particulars	Barmer		Bikaner		Total
	2009-10	2010-11	2009-10	2010-11	
Number of Retail LPH shops	9	4	4	10	**27**
Total number of addicts	1,103	367	411	711	**2,592**
Quantity of LPH permitted for sale in a day (2 x number of addicts) (in kg)	2,206	734	822	1,422	**5,184**
Actual sale of LPH (in kg)	3,195	1,095	961	2,165	**7,416**
Excess sale of LPH (in kg)	989	361	139	743	**2,232**

[20] Quantity of LPH 1,350 kg X retail sale price of LPH @ ₹ 500 per kg = 6.75 lakh.

The licensees entered either the names of fake addicts or repeated the name of the addicts. Further, during test-check of the records of four DEOs[21], it was noticed that the retail licensees had irregularly sold more than two kg LPH to an addict in a day. Possibility of illicit trade of LPH also can not be ruled out.

6.8.22.2 During test-check of retail sale registers of LPH at DEOs, Barmer and Jodhpur for the years 2009-10 and 2010-11, it was noticed that 45 retail licensees had sold 10,504 kg LPH in excess of sanctioned monthly quota of the permit holder addicts of their shops. The excess quantity ranged between five kg and 585 kg of LPH.

Particulars	Barmer		Jodhpur		Total
	2009-10	2010-11	2009-10	2010-11	
Number of Retail LPH shops	13	9	11	12	**45**
Sanctioned monthly quota	6,629	7,641	10,474	10,078	**34,822**
Maximum quantity of LPH which could be sold as per quota in various months (in kg)	11,263	11,502	17,277	43,635	**83,677**
Actual sale of LPH by the retail shops in the same period (in kg)	13,947	12,094	19,410	48,730	**94,181**
Excess sale of LPH (in kg)	2,684	592	2,133	5,095	**10,504**

It was further noticed that the details regarding sale of LPH were not entered in the retail sale register.

After being pointed out, the Government stated (August 2012) that LPH was sold as per prescribed monthly quota to addicts by retail licensees. The reply further stated that there was a possibility that the permit holder addicts purchased less than one kg LPH more than one time in a day, which could have resulted in purchase of more than two kg. In this way, the sale of more than the prescribed quantity could have been made to the permit holder addict.

The reply is not tenable as the retail licensees sold LPH in excess of sanctioned monthly quota and did not enter details of sale in the registers which were not checked by the Department.

The Department may ensure that the retail sale registers are verified/ checked on regular basis to ensure genuineness of the sale to permit holder addicts. This can be achieved through computerisation of retail sale registers duly linking with details of permit holder addicts.

[21] Barmer, Bikaner, Jhodpur and Sriganganagar

6.8.23 Increase in number of addicts in the State

As per the National Policy on Narcotic Drugs and Psychotropic Substances 2010, the State Government was to ensure that the quantity of poppy straw to be provided to the addicts is progressively reduced so as to ensure that after a certain period of time, say, three years from the date of announcement of policy, there are no addicts requiring poppy straw.
After this no poppy straw will be allowed to be used for addiction and it shall only be ploughed back as per procedure under the supervision of the CND.

6.8.23.1 It was observed that no mechanism was put in place for progressively reducing the number of LPH permit holder addicts by the state to ensure eradication of the poppy straw addiction within three years as envisaged in the national policy. A test checked DEOs revealed that no efforts were made by the Department for coordination with the Medical Department to ensure compliance of the national policy, which is indicative of weak willpower of the State.

After being pointed out, the Government stated that the number of renewed permits of addicts has been reducing progressively. Efforts will be made to remove the addiction of LPH addicts in future.

6.8.23.2 During test-check of the registration records of addicts for one month (July 2010) of a private de-addiction centre of Jodhpur (M/s Rajasthan Pharmacia) it was noticed that 339 addicts of LPH were registered in the centre for de-addiction. It was found that these addicts were not permit holders from the Excise Department; however, they were regularly consuming one to 10 kg LPH per month. The source of LPH supply was not disclosed by addicts. The de-addiction centre was also not keeping any information regarding the source from where the addicts had acquired the LPH as seeking such information may discourage addicts from joining the centre. The enrollment of such high number of addicts in one month itself indicates that there is a wide network of illegal trafficking of LPH in the State which the Department has failed to control.

After being pointed out, the Government stated (August 2012) that all kinds of addicts like LPH, opium, liquor etc. are registered in the de-addiction centre M/s Rajasthan Pharmacia, Jodhpur. Further as per NDPS Policy of India Government, licence system of LPH will be ended after 31 March 2015 and before this date all addicts living in the State have to be de-addicted. Proposal in this regard has already been sent to the Government by the Department.

The reply is not tenable as the Department has not made any effort for progressive de-addiction of permit holder addicts and for the prevention of further addiction of LPH/opium addicts which exists in the society.

6.8.24 Conclusion

It was noticed that the Department failed to collect and dispose of the LPH from the cultivators who had not submitted the declaration forms. The Department neither reported the cases of non-compliance to the CND nor registered any offense case against the defaulter cultivators. This inaction encourages future non-compliance and illegal trafficking of LPH within the State. The declaration forms were collected by the wholesale licensees of production area instead of the Department. Further, no verification of the declaration forms was done by the Department and incomplete and doubtful declaration forms were accepted which raises doubt on the authenticity of these declarations forms. The physical verification reports submitted by the Excise Inspectors regarding confirmation of non-availability of LPH with cultivators were incomplete and inconsistent. Moreover, the licensees incurred expenditure of ₹ 228.89 crore on licence fee, excise duty, VAT, purchase price etc. during the year 2009-11 whereas the total amount realised by the licensees from sale of LPH was only ₹ 184.22 crore resulting in a clear deficit of ₹ 44.67 crore. The Government/Department did not analyse as to how the licensees were managing to incur expenditure over their income from the sale of LPH which was required to be sold only to the permit holder addicts and on fixed sale price. During 2009-11, permits of 2131 addicts were renewed by the Department after the period ranging between 3 and 20 years though there was no provision in the rules for renewal of permit after lapse of more than one year. The Department made no efforts to find out the source from where the addicts had purchased the LPH during the period in which their permits were not renewed. Further, the renewal of permits was done without obtaining recommendation of Medical Officer in Form 'I'. There were other serious lapses such as non-adherence of Medical Officer's advice to deduct/issue the LPH for consumption, issue of double permits/permits bearing the same permit number to more than one addict, sale of LPH to addicts before renewal of their permits etc. Further, there were cases wherein illegal sale was made by the retail licensee to persons other than permit holders. There are alarming numbers of LPH addicts within the State though they are not permit holders. This raises doubt on the control exercised by the Department in regulating sale of LPH within the State.

6.8.25 Recommendations

The Government may consider:

- **reporting the list of defaulter cultivators to the CND so that the licences of defaulter cultivators for opium cultivation are not renewed;**
- **fixing the norms of LPH according to per kg production of opium permitted by the CND;**
- **introducing e-governance and computerisation of data pertaining to permit holder addicts, retail licensees, wholesale licensees, cultivators, purchase and sale of LPH *etc.* and**
- **taking effective measures to control addiction in the State as per the National Policy.**

6.9 Other Audit observations

During test-check of the records, several cases of non/short recovery of excise revenue came to the notice which are mentioned in the succeeding paragraphs of this chapter. Some of these omissions were pointed out in the earlier years also. However, not only do the irregular ities persist, but also they remain undetected till the next audit is conducted. These cases are illustrative only and are based on test-check of the records produced to Audit. There is a need for the Government to improve the internal control system including strengthening of internal audit in order to avoid recurrence of such cases.

6.10 Non-observance of the provisions of Act/Rules

The Rajasthan Excise Act and Rules provide for:

(a) levy of licence fee for hotel bar licence at the prescribed rate;

(b) levy of licence fee for composite shops at the prescribed rate; and

(c) levy of permit fee at the rate of ₹2.50 per bulk litre on rectified spirit.

It was noticed that the District Excise Officers did not observe the above provisions in the cases mentioned in the paragraphs 6.10.1 to 6.10.3.

6.10.1 Short realisation of hotel bar licence fee

As per the Rajasthan Excise (Grant of Hotel Bar/Club Bar Licences) Rules, 1973, hotels are broadly categorised in three categories *viz.* 'luxury', 'others' and 'heritage' for the purpose of recovery of hotel bar licence fee. Luxury hotels are to be further categorised in Five Star, Four Star and Three Star by the Department of Tourism, Government of India. Heritage hotels are the hotels which are duly recognised by the Department of Tourism, Government of India as heritage hotels. Heritage hotels are to be categorised in 'A', 'B' and 'C' categories by a committee constituted by the State Government. Different rates of licence fee for hotel bar licence were prescribed for each category of hotels. As per notification dated 31 January 2012, hotels defined as 'Heritage Rajasthan Hotels' are recognised by the State Government. Prior to this, the heritage hotels were those hotels which were recognised by Government of India.

(i) During test-check of the files related with hotel bar licences at the Excise Commissioner's office for the year 2010-11, it was noticed (November 2011) that hotel bar licences of 21 hotels for the year 2010-11 were renewed by the Excise Commissioner under heritage category. The Department recovered the licence fee at the rate applicable for 'B' or 'C' category of heritage hotels. It was observed that these hotels were not recognised as heritage hotels by the Department of Tourism, Government of India, however, the committee constituted by the State Government categorised them into 'A', 'B' and 'C' categories which was incorrect. Thus the licence fee for the hotel bar licence

for the period prior to January 2012 was required to be assessed as 'other hotels'.

When the rates charged by the Department for these 21 hotels were compared with the rates prescribed for 'other' hotels, the difference of the licence fee worked out to ₹ 63 lakh which is recoverable from these hotels.

After being pointed out (between December 2011 and February 2012), the Government stated (June 2012) that for categorisation of heritage hotels, a committee was constituted by the State Government on 09 September 2010. The committee subsequently recognised 19 out of 21 hotels pointed out by audit under 'B' and 'C' category 'Rajasthan heritage hotels'. In respect of remaining two hotels, efforts are being made to recover the difference amount of licence fee.

The reply in respect of 19 hotels is not tenable as recognition as 'Heritage Hotels' by the Department of Tourism, Government of India was prerequisite for categorisation by the State Government constituted Committee.

(ii) During test-check of the files related with hotel bar licences at the Excise Commissioner's Office and District Excise Offices, Jodhpur and Kota for the year 2010-11, it was noticed (between November 2011 and January 2012) that hotel bar licences for five hotels[22] for the year 2010-11 were renewed by the Department as 'other' category hotels. These hotels had advertised as Star category in public domain/website of Tourism Department of Government of India/major travel websites/Rajasthan hotel directory *etc.* It was further observed that out of these five hotels, two hotels of Jaipur had earlier sought the hotel bar licence under Five Star categories. However, the Department renewed licence of these two hotels for 'other' category. This resulted in short realisation of licence fee of ₹ 36.50 lakh as detailed below:

(₹ in lakh)

Name of DEOs	Name of Hotels	Category	Recoverable licence fee	Licence fee recovered	Amount of short recovery
Jodhpur	Manvar Resort & Camp, Khiyansaria, Jodhpur	3 Star	8.00	1.50	6.50
Jodhpur	Kalinga Hotel, Jodhpur	3 Star	8.00	6.00	2.00
Jaipur	Hotel Cambay Spa and Resort, Kukus, Jaipur.	5 Star	15.00	6.00	9.00
Jaipur	Cambay Golf Resort, Jamdoli, Jaipur	5 Star	15.00	6.00	9.00
Kota	Hotel Umaid Bhavan Palace, Kota.	5 Star	15.00	5.00	10.00
Total			**61.00**	**24.50**	**36.50**

After being pointed out (between December 2011 and February 2012), the Government stated (July 2012) that (i) in one case (Kalinga Hotel, Jodhpur), the amount has been recovered (ii) in two cases (Manvar Resort & Camp, Khiyansaria, Jodhpur and Hotel Umaid Bhavan Palace, Kota), demand has

[22] Manvar Resort & Camp, Khiyansaria, Jodhpur, Kalinga Hotel, Jodhpur, Hotel Cambay Spa and Resort, Kukus, Jaipur, Cambay Golf Resort, Jamdoli, Jaipur and Hotel Umaid Bhavan Palace, Kota.

been raised but recovery has been stayed by High Court in case of Manvar Resort & Camp, Khiyansaria, Jodhpur and (iii) for remaining two cases, the reply was silent about recovery.

6.10.2 Non/short realisation of annual licence fee for composite shops

As per the terms and conditions of licence for retail sale of country liquor issued under the Rajasthan Excise Act, 1950, annual licence fee for composite shops located within five kilometres of municipal limit was to be levied equivalent to the rate of licence fee of Indian Made Foreign Liquor/ Beer shops located in the nearest municipal area.

During test-check of the records of District Excise Offices (DEOs) Jhunjhunu, Jodhpur and Kota for the year 2010-11, it was noticed (between July 2011 and January 2012) that eight composite shops[23] were located within five kilometres of municipal limit. It was observed that:

(i) In respect of five shops of Jodhpur and Jhunjhunu, the Department recovered licence fee of ₹ 4.68 lakh at the rate applicable for shops located in rural area instead of ₹ 33 lakh at the rate applicable for shops located in the nearest municipal area as shown in the table below:

(₹ in lakh)

Sl. no.	Name of DEOs	Villages/areas in which shops located	Nearest municipal areas (within five K.M.)	Year	Applicable licence fee	Recovered licence fee	Short recovery
1.	Jodhpur	Khichan	Phalodi	2010-11	3.90	0.71	3.19
2.		Sangaria (near Tanawara Phata)	Jodhpur	2009-10	7.50	0.25	7.25
				2010-11	9.00	2.08	6.92
3.	Jhunjhunu	Pratap pura (Math)	Jhunjhunu	2010-11	4.80	0.93	3.87
4.		Vahidpura	Mandawa	2010-11	3.90	0.25	3.65
5.		Raghunathpura (Dhola Kheda)	Udaipurwati	2010-11	3.90	0.46	3.44
Total					**33.00**	**4.68**	**28.32**

(ii) In respect of one shop at Kheda-Rasoolpur, Kota, licence fee of ₹ 9 lakh was recovered for the year 2008-09 to 2010-11 at the rate applicable for shops located in Kaithoon municipality instead of ₹ 16.35 lakh at the rate applicable for Kota municipal area which was the nearest municipal area.

(iii) In respect of two shops of Pal Group, Jodhpur, licence fee of ₹ 9 lakh was recovered for only one shop instead of ₹ 18 lakh for two shops.

Thus, application of incorrect rates/non-recovery of licence fee resulted in short realisation of ₹ 44.68 lakh.

[23] Country liquor shops having license for retail sale of Indian Made Foreign Liquor and Beer also.

After being pointed out (between August 2011 and February 2012), the Government accepted (July 2012) the audit observation in10 cases. However, further action taken has not been received (November 2012).

6.10.3 Non-realisation of permit fee

Rule 69B of the Rajasthan Excise Rules, 1956 provides for levy of permit fee at the rate of ₹ 2.50 per bulk litre on rectified spirit transported within the State by a distillery and utilising it for the manufacture of country liquor.

During test-check of the records of District Excise Offices, Sriganganagar and Udaipur for the year 2010-11, it was noticed (between September and November 2011) that two bottling plants[24] had imported rectified spirit for manufacturing of country liquor from a distillery[25] situated in the State, but no permit fee was charged during 2010-11 on 104 permits involving 22,52,000 bulk litres of rectified spirit. This resulted in non-realisation of permit fee of ₹ 56.30 lakh[26].

After being pointed out (between October and December 2011), the Government stated (July 2012) that vide its notification dated 01.04.2012 permit fee has been exempted on rectified spirit transported within the State for the manufacture of country liquor.

The reply is not tenable as the Notification exempting permit fee on rectified spirit transported within the State for the manufacture of country liquor was issued on 01.04.2012, the cases pointed out by audit pertain to the pre notification period. Thus, recovery in previous cases is to be made.

[24] H.H. Bottling Plant, Sriganganagar and Mahamaya Liquor Industries Private Limited, Udaipur.
[25] Globus Spirits Limited, Alwar.
[26] 22,52,000 BL x ₹ 2.50 per BL = ₹ 56,30,000.

CHAPTER-VII

NON-TAX RECEIPTS

CHAPTER-VII: NON-TAX RECEIPTS

7.1 Introduction

Non-tax revenue of the State Government mainly comprises receipts from interest, mines and minerals, miscellaneous general services, water resources, public works, police, medical and health, forestry and wildlife. The total revenue and non-tax revenue raised by the State Government during the years 2007-08 to 2011-12 were as under:

(₹ in crore)

Year	Total revenue raised by the State	Total non-tax revenue of the State	Percentage of non-tax revenue to total revenue
2007-08	17,328.66	4,053.93	23.4
2008-09	18,832.21	3,888.46	20.6
2009-10	20,972.49	4,558.22	21.7
2010-11	27,053.20	6,294.12	23.3
2011-12	34,552.15	9,175.10	26.6

7.2 Analysis of arrears of revenue

The arrears of revenue in mining receipts (excluding arrears of illegal excavation/despatch of minerals) as on 31 March 2012 amounted to ₹ 50.57 crore, of which ₹ 8.07 crore were outstanding for five years or more. The following table depicts the position of arrears of revenue as on 31 March 2012.

(₹ in crore)

Year of arrear	Total arrears as on 1.4.2011	Recovery during the year 2010-11	Recoveries outstanding as on 31.3.2012
Up to 2006-07	90.62	82.55	8.07
2007-08	101.42	91.64	9.78
2008-09	103.17	97.85	5.32
2009-10	119.22	102.58	16.64
2010-11	125.76	115.00	10.76
Total	**540.19**	**489.62**	**50.57**

The chances of recovery of arrears of ₹ 8.07 crore, outstanding for five years or more are bleak.

It is recommended that the Government may take appropriate action to recover the arrears.

7.3 Impact of Audit Reports

During last five years, cases of non/short levy, non/short realisation, underassessment/loss of revenue, application of incorrect rate of royalty, incorrect computation of royalty *etc.* with revenue implication of ₹ 1137.42 crore in 74 paragraphs were pointed out through the Audit Reports. Of these, the Department/Government had accepted audit observations in 42 paragraphs involving ₹ 326.64 crore and had since recovered ₹ 22.67 crore in 24 paragraphs (September 2012) as shown in the following table:

(₹ in crore)

Year of Audit	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number of paragraph	Amount
2006-07	15	34.29	9	3.24	6	1.02
2007-08	13	275.30	10	23.86	5	4.31
2008-09	27	259.67	17	22.01	11	17.04
2009-10	6	410.16	5	276.67	1	0.06
2010-11	13	158.00	1	0.86	1	0.24
Total	**74**	**1137.42**	**42**	**326.64**	**24**	**22.67**

Amount of recovery is far less than the accepted amount. The Department stated that in some cases recovery had been stayed by the judicial authorities, while in others, demands were pending at various stages of recovery.

7.4 Working of Internal Audit Wing

Internal audit is an important mechanism to ensure that the Departmental operations are carried out in accordance with the applicable laws, regulations and approved procedures in an economical, efficient and effective manner, that subordinate offices are maintaining various records, registers/account books properly and accurately and that adequate safeguards are being taken against non/short collection or evasion of revenue.

Records of the Director, Mines and Geology (DMG), Udaipur revealed that audit of almost all the mining units was pending since 2004-05. In absence of internal audit **the Departmental authorities remained unaware of the areas of malfunctioning in the system, evasion/leakage of revenue. The matter was pointed out in the C&AG's Audit Report 2010-11. However, no action was taken by the Department.**

7.5 Results of Audit

Test-check of the records of the Mines, Geology and Petroleum Department conducted during the year 2011-12 revealed non/short recovery of revenue amounting to ₹ 636.94 crore in 23,024 cases, which broadly fall under the following categories:

(₹ in crore)

Sl. no.	Category	Number of cases	Amount
Mines, Geology and Petroleum Department			
1.	Unauthorised excavation	1,156	420.53
2.	Non/short recovery of dead rent and royalty	714	48.96
3.	Non-levy of penalty/interest	626	5.28
4.	Non-forfeiture of security	22	2.33
5.	Other irregularities	20,506	159.84
	Total	**23,024**	**636.94**

During the year 2011-12, the Mines, Geology and Petroleum Department accepted short realisation and other deficiencies of ₹ 21 crore in 1,758 cases, of which 983 cases involving ₹ 10.47 crore were pointed out during the year 2011-12 and the others in earlier years. The Departments recovered ₹ 22.37 crore in 1,631 cases, of which 304 cases involving ₹ 58.92 lakh pertained to the current year audit and the others pertained to earlier years.

A few illustrative audit observations involving ₹ 319.57 crore are mentioned in the succeeding paragraphs.

Mines, Geology and Petroleum Department

7.6 Audit observations

Test-check of records of the Mines, Geology and Petroleum Department revealed several cases of non-observance of the provisions of Act/Rules, non-adherence to the Government orders/procedure and other irregularities. A few of these cases are mentioned in the succeeding paragraphs of this chapter. Such omissions are being pointed out in audit every year, however, not only the irregularities persist, but these also remain undetected till an audit is conducted. There is a need for the Government to improve the internal control system in the Department.

7.7 Non-observance of the provisions of Acts/Rules

The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act), Mineral Concession (MC) Rules, 1960, Mineral Conservation and Development (MCD) Rules, 1988 and Rajasthan Minor Minerals Concession (RMMC) Rules, 1986 provide for:

(i) levy of royalty at the prescribed rates;

(ii) levy of cost of minerals illegally excavated/despatched;

(iii) levy of interest on delayed payments;

(iv) grant of leases and

(v) conservation of minerals.

The Mining Engineers/Assistant Mining Engineers and Departmental authorities did not observe the provisions of the Act/Rules in the cases mentioned in paragraphs 7.7.1 to 7.7.15. This resulted in non/short realisation of royalty, non/short realisation of cost of mineral and non-levy of interest.

7.7.1 Irregular sanction of limestone leases as minor mineral

The Government of India declared (6 March 1965) limestone as a minor mineral when used in kilns for manufacture of lime as building material and authorised (14 September 1989) the State Governments to grant mining leases for limestone as a minor mineral only, after satisfying that the limestone is fit to be used only for manufacture of lime as building material on the basis of chemical analysis reports.

Limestone assaying less than 40 *per cent* CaO or more than 16 *per cent* SiO_2 and 5 *per cent* or more of MgO only may be considered as a minor mineral. For this, the Department should obtain a chemical analysis report of a reputed analyst. As per Rule 48 (5) of the RMMC Rules, 1986, cost of mineral, ten times of the royalty, is recoverable, when mineral is excavated and despatched unlawfully.

Under Section 13 of the MMDR Act, 1957, the Central Government has powers to make rules for regulating the grant of prospecting licences and mining leases in respect of minerals and for the purposes connected therewith. Under Section 15 ibid, the Central Government has delegated powers to the State Governments to make rules in respect of concessions of minor minerals.

During test-check of the concession, assessment files and the supporting returns in seven Mining Engineer (ME)/Assistant Mining Engineer (AME) offices[1], it was found (July 2011 to March 2012) that 28 leases of limestone were sanctioned for making lime as building material. However, the lessees had despatched the limestone to various cement factories and steel plants for production of cement and iron, which was contrary to the end use condition and violation of the conditions of the mining leases. The chemical analysis report was not made available to audit.

It was further noticed that in case of AME, Goton, that 70 per cent mineral excavated and despatched from lease area was of SMS grade[2]/cement grade and in case of AME, Kotputli, the mining lease no. 259/94 was sanctioned for minor mineral with the condition that mineral excavated from lease area was to be despatched to a cement factory which was contrary to the provisions of the Act .

The action of the lessees to deviate the end use of mineral and its supplying to cement factories and steel plants, in contravention of conditions of the leases, was illegal. The Department was also responsible for the irregularity. The cost of such illegally excavated and despatched mineral was ₹ 240.29 crore.

The matter was pointed out to the Department and reported to the Government (July 2011 to March 2012); their replies were awaited (November 2012).

[1] Banswara, Gotan, Jodhpur, Kota, Kotputli, Sirohi and Udaipur
[2] high grade limestone for use of steel melt shop(SMS) in the steel plant

7.7.2 Illegal production of mineral

As per Rule 18(10) of the RMMC Rules, 1986, the lessee shall abide by all existing Acts and Rules enforced by the Government of India and the State Government and all such other Acts and rules as may be enforced from time to time in respect of working of mines. Under Section 21(4) of the Air (Prevention and Control of Pollution) Act, 1981 and Section 25 and 26 of the Water (Prevention and Control of Pollution) Act, 1974, the lessee is required to obtain a consent to operate from the Rajasthan State Pollution Control Board (RSPCB) determining quantity of the minerals that can be excavated during the prescribed period. Further, Rule 48(5) of the Rules ibid provides that whenever any person without a lawful authority, raises and despatches any mineral, the Assistant Mining Engineer/Mining Engineer (AME/ME) concerned may recover cost of such mineral computed as ten times of the royalty payable at prevalent rates, along with the royalty of the mineral.

7.7.2.1 During cross verification of the concession files, assessment files and supporting returns and permissions of excavation obtained from RSPCB in eight ME/AME offices[3], it was noticed (July 2011 to March 2012) that 17 mining lease holders excavated excess of 9,62,812 MT of minerals such as marble, limestone (building) and masonry stone over and above of the quantity authorised by the RSPCB during the period from 2006-07 to 2010-11. The concerned MEs issued *rawannas* for the quantity of mineral more than that authorised by the RSPCB. Thus, the Department did not restrict issue of *rawanna* upto the quantity of mineral authorised by the RSPCB. This resulted in illegal excavation of 9,62,812 MT of minerals valued at ₹ 80.76 crore which was not recovered by the Department.

The matter was pointed out to the Department and reported to the Government (September 2011 to March 2012); their replies were awaited (November 2012).

[3] Ajmer, Banswara, Bikaner, Nagaur, Rajsamand-I, Rajsamand-II, Ramganjmandi and Udaipur

As per condition 11 C of part VII of lease agreement executed under Rule 31 of the MC Rules, 1960, the lessee shall take measures for the protection of environment and such other measures as may be prescribed by the Central or State Government. Rule 37 of the MCD Rules,1988, provides that air pollution during prospecting, mining, metallurgical operations and related activities shall be controlled and kept within 'permissible limits' specified under the Air (Prevention and Control of Pollution) Act, 1981 and Environment (Protection) Act, 1986 by the holder of prospecting licence or a mining lease. Further, as per Section 21(5) of the MMDR Act, 1957, the price, along with royalty, of the mineral, illegally excavated and disposed off, shall be recovered from the defaulter.

7.7.2.2 During cross verification of the concession files, assessment files with the supporting returns and permissions of excavation obtained from RSPCB in three offices of Superintending Mining Engineer/ Mining Engineer/ Assistant Mining Engineer (SME)/ (ME)/(AME)[4], it was noticed (July/October 2011 and February 2012) that unlawful production of 1,47,745 MT of major minerals was carried out over and above the quantity permitted to be produced by the RSPCB, the cost of such excess minerals produced worked out to ₹ 3.36 crore, which was not recovered.

The matter was pointed out to the Department and reported to the Government (between August 2011 and February 2012); their replies were awaited (November 2012).

7.7.3 Non-recovery of royalty of mineral lime-stone (cement grade)

As per Section 9(2) of the MMDR Act, 1957, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him from the leased area at the rate for the time being specified in the second schedule of the Act in respect of that mineral.

During cross verification of the concession files, assessment files with the supporting returns in five ME offices, it was found (July 2011 to January 2012) that six lessees of mineral limestone (cement grade) were using mineral in the crushers established in lease areas for making gitties and onward preparation of clinker for manufacture of cement. Royalty amounting to ₹ 23.42 crore in respect of 43,81,258 MT of mineral limestone shown as waste in the returns during the crushing into gitties, was not paid by the lease

[4] SME Bikaner, ME Rajsamand I, AME Shriganganagar

holders as under :

Name of the ME office	ML No.	Period	Quantity of mineral wasted (MT)	Recoverable royalty amount (₹ in crore)
Ajmer	24/97(R)	01.04.2009 to 31.03.2011	4,98,505	2.93
Chittorgarh	10/83	01.04.2008 to 31.03.2011	7,87,345	4.34
	24/92	01.04.2008 to 31.03.2011	8,04,326	4.68
Kota	1/92	2006-07 to 2010-11	4,06,525	2.14
Ramaganjmandi	1/95	21.02.2006 to 20.02.2011	44,191	0.22
Sirohi	6/94	2006-07 to 2010-11	18,40,366	9.11
Total			**43,81,258**	**23.42**

The matter was pointed out to the Department and reported to the Government (September-October 2011 and March 2012); their replies were awaited (November 2012).

7.7.4 Unauthorised excavation and use of minerals by public works contractors

As per Government order dated 8 October 2008, the public works contractor shall have to obtain short term permit (STP), for the minerals to be used in the works, from the concerned ME/AME before starting the work. In case of use of mineral in work without STP, the concerned works department is responsible for depositing cost of minerals used without STP.

The contractor has to submit records for assessment of royalty of minerals authorised in STP and actually used in the work within 15 days of completion of STP period.

As per Rule 63 of the RMMC Rules, 1986, the cost of entire excess quantity of the minerals illegally excavated and used shall be recovered, if such quantity exceeds 25 *per cent* over and above permitted in STP. The cost of minerals shall be 10 times of the prevalent royalty as envisaged in Rule 48 of *ibid*.

7.7.4.1 During cross verification of short term permits issued to public works contractors with the work orders 'G' schedules[5] maintained in 17 ME/ AME offices, it was noticed (June 2011 to March 2012) that 111 work contractors in 172 works excavated/ consumed minerals masonry stone, bajri, gravel, ordinary soil etc. either without obtaining STP or more than 25 *per cent* of the quantity permitted in the STP. The cost of 99,737 MT minerals illegally excavated, worked out to ₹ 11.83 crore, was not recovered from concerned contractors.

The matter was pointed out to the Department and reported to the Government (August 2011 to March 2012); their replies were awaited (November 2012).

[5] Abstract of cost

7.7.4.2 During test-check of the royalty deduction and minerals consumption files maintained in two ME offices, it was noticed (August and October 2011) that in 276 works, contractors excavated and consumed minerals without obtaining STPs from concerned MEs. The Public Works Department deducted single royalty[6] of the minerals used in works by the contractors and deposited it with the Mining Department. Since the mineral was excavated and used without STPs the concerned department was required to deposit the cost of mineral as per order dated 8 October 2008, instead of the recovered royalty amount only. The recoverable cost of minerals worked out to ₹ 6.40 crore as detailed below:

(₹ in lakh)

Name of ME	Royalty deducted	Cost of minerals
Alwar	63.03	630.27
Bharatpur	0.94	9.42
Total	**63.97**	**639.69**

After being pointed out, Department stated (September and October 2011) that recovery of the amount shall be made after issuing notices to the concerned works departments.

The matter was pointed out to the Department and reported to the Government (October and November 2011); their replies were awaited (November 2012).

7.7.4.3 During the cross verification of short term permit issued to public works contractor with the work order 'G' schedule/consumption statement maintained in ME office, Sirohi, it was noticed (August 2011) that work for widening, strengthening and improvement of riding quality of Sirohi-Mandar-Deesa Road {SH-27, Km. 197/0 to 268/400 (under BOT)} was awarded (August 2008) to M/s Shiv Puja Construction (P) Ltd. by Chief Engineer, Public Works Department, Rajasthan, Jaipur which was completed on 27 August 2010. It was noticed from mineral consumption statement sent (20 October 2010) by Executive Engineer, PWD Division, Sirohi to ME that the contractor had used excess quantity of minerals grit/blast, gravel/bajri and ordinary soil over and above the quantity authorised in the STP. As per item number 5 of the 'G' schedule, 1,99,920 MT (1,42,800 cum x 1.4) of soil was required in construction of embankment but the contractor used it without obtaining STP for full quantity. Recoverable royalty and cost of minerals quantity used in excess of the authorisation in STP or without STP worked out to ₹ 2.59 crore[7] was not recovered as mentioned below:

(₹ in lakh)

Name of the mineral	Quantity of minerals used (MT)	Quantity of minerals as per STP (MT)	Unauthorised quantity of minerals (MT)	Royalty amount			Cost of mineral
				Recoverable	Recovered	Short recovered	
Grit/Ballast	2,67,266	67,000	2,00,266	26.73	6.70	20.03	200.27
Gravel/Bajri	83,600	76,000	7,600	8.36	7.60	0.76	-
Ordinary soil	1,99,920	28,000	1,71,920	4.00	0.56	3.44	34.38
Total				**39.09**	**14.86**	**24.23**	**234.65**

[6] Single royalty means the royalty payable to the Government in respect of the mineral as prescribed in schedule-I under rule 18 (1) (b) of RMMC Rules1986

[7] (₹ 234.65 lakh + ₹ 24.23 lakh)

The matter was pointed out to the Department and reported to the Government (October 2011); their replies were awaited (November 2012).

7.7.5 Mineral excavation without approval of mining plan/ scheme

7.7.5.1 Major Mineral

As per Rule 22 A (1) of the MC Rules,1960 and Rule 9 of the MCD Rules, 1988 no person shall commence mining operation in any area except in accordance with a mining plan approved under Section 5(2)(6) of the MMDR Act, 1957. Section 21 (5) of the Act ibid envisages that cost of mineral along with royalty shall be recovered in case of unlawful excavation/despatch of the mineral.

During test-check of concession assessment files and the supporting monthly returns filed by the lessees in two AME offices, Shriganganagar and Gotan, it was noticed (July and November 2011) that holders of seven leases excavated and despatched 4,87,831 MT of mineral gypsum and china clay without approved mining plan. In case of Shriganganagar it was found that Indian Bureau of Mines (IBM) also commented (16.06.2007) that the lessee holding mining lease no. 2/2000 did not submit the mining scheme under the provisions of Rule 12(3) of MCD Rules, 1988. Production of mineral gypsum and china clay without approved mining plan/scheme was illegal. It attracted recovery of cost of mineral amounting to ₹ 11.04 crore as detailed below:

(₹ in lakh)

Name of AME office	ML No.	Period of illegal production	Name of mineral	Illegal production (In MT)	Cost of mineral
Gotan	1/03	1.1.10 to 4.3.11	China clay	11,272	33.81
	3/04	24.3.10 to 23.3.11	-do-	510	1.53
	6/04	7.4.10 to 1.8.10	-do-	555	1.66
	1/05	7.9.10 to 31.3.11	-do-	599	1.80
	16/05	14.11.10 to 31.3.11	-do-	527	1.58
	10/05	17.11.10 to 31.3.11	-do-	3,133	9.40
Shriganganagar	2/2000	1.5.06 to 31.1.11	Gypsum	4,71,235	1054.64
Total				**4,87,831**	**1,104.42**

The matter was pointed out to the Department and reported to the Government (August and December 2011); their replies were awaited (November 2012).

7.7.5.2 Minor Mineral

As per Rule 18(10) of the RMMC Rules, 1986, the lessee shall abide by all existing Acts and Rules framed by the Government of India or the State Government and all such other Acts or Rules as may be enforced from time to time in respect of working of mines and other matters affecting safety, health and convenience of the lessee or of the public. Rule 16 and 17 of the Granite Conservation and Development Rules, 1999 and the Marble Development and Conservation Rules, 2002 envisage that no person shall commence mining operation except in accordance with an approved mining plan.

During test-check of concession, assessment files and the supporting monthly returns in five ME/AME offices[8], it was found (July to November 2011) that nine holders of mining leases excavated and despatched 12,276 MT mineral marble and granite without approved mining plan, which was violation of rules and provisions. Production of mineral without approved mining plan/mining scheme was illegal and attracted recoverable mineral cost of ₹ 1.92 crore, which was not recovered.

The matter was pointed out to the Department and reported to the Government (August to December 2011); their replies were awaited (November 2012).

7.7.6 Illegal subletting of lease

Rule 37 of the MC Rules, 1960, provides that the lessee shall not, without the previous consent in writing of the State Government, assign, sublet, mortgage, or in any other manner, transfer the mining lease or any right, title or interest therein, or enter into or make any *bonafide* arrangement, contract or understanding whereby the lessee will or may be directly or indirectly financed to a substantial extent by, or under which the lessee's operations or understandings will or may be substantially controlled by, to any person or body of persons other than the lessee.

During test-check of concession files, assessment files and supporting monthly returns in ME office, Ajmer, it was noticed (July 2011) that a lease number 34/85 for mineral Quartz, Felspar and Wollastonite near village Alipur, Tehsil Pisangan District Ajmer was effective in favour of (M/s Arvind Minerals (proprietor Shri Arvind Kumar Garg). The lessee transferred (22 June 2004) all mining rights in favour of M/s Indigo Minerals (firm) without previous consent of the State Government. The mining operations were carried out by M/s Indigo Minerals since 13 July 2006 as the lessee gave possession of the lease to the firm. As per assessment

[8] Kotputli, Nimbahera, Rajsamand-I, Rishabhdev and Sojat city

records, the unlawful quantities of mineral excavated and despatched along with recoverable cost ₹ 1.74 crore worked out was as follows:

(₹ in lakh)

Period	Name of mineral excavated	Quantity (MT.)	Cost of mineral
13.07.2006 to 12.07.2007	Quartz	484.020	1.82
13.07.2007 to 12.07.2008	Feldspar	2,795.070	4.18
	Wollastonite	16,382.905	168.26
Total			**174.26**

The matter was pointed out to the Department and reported to the Government (September 2011); their replies were awaited (November 2012).

7.7.7 Non-raising of demand of cost of mineral excavated and despatched illegally

Rule 18 (9) (c) of the RMMC Rules, 1986, provides that lessee or any other person shall not remove or despatch or utilise the mineral from the mines and quarry without *rawanna*. In case of despatch of mineral without lawful authority, cost of mineral, as envisaged in Rule 48 (5) of *the said Rules*, 10 times of the royalty payable at the prevalent rates, is to be recovered along with royalty.

During test-check of inspection reports conducted by the Department and demand approval files in ME office, Alwar, it was found (August-September 2011) that as per joint inspection reports of Mines and Geology, Forest and Revenue Departments, in 16 cases, lessees and other persons had illegally excavated and despatched mineral masonry stone without *rawanna* from December 2007 to February 2011, but the cost of mineral along with royalty aggregating to ₹ 7.91crore were not demanded by the Department as mentioned below:

Period of inspection	Number of cases	Range of delay period	Quantity of mineral illegally excavated/ despatched (MT)	Cost of mineral (Ten times of royalty) PMT (₹)	Recoverable amount (₹ in crore)
December 2007	4	more than 4 years	99,625.5	130	1.29
October 2010 and February 2011	12	6 to 2 months	8,27,091.5	80	6.62
Total	**16**	**-**	**9,26,717.0**	**-**	**7.91**

The cases are still pending with Government for decision even after a lapse of one to five years resulting in non-realisation of cost of mineral valued at ₹ 7.91 crore.

The matter was pointed out to the Department and reported to the Government (October 2011); their replies were awaited (November 2012).

The Government may fix a time frame to finalise the cases so that the due amount may be recovered in time.

7.7.8 Non/short raising demand of cost of minerals

As per notification dated 10 June 1994 issued under Rule 65 A of the RMMC Rules, 1986, the kiln owner shall obtain permission for the brick earth to be used in making bricks. The permission shall be at least for one year and maximum for five years. The royalty on brick earth shall be recovered on the basis of annual metric ton quantity of earth used as per formula 150 days x 3.5 MT x number of *ghories*. Further, Rule 48 of the *the said* Rules, provides that whenever any person raises, without lawful authority, any mineral, he shall be liable to pay cost of the mineral so excavated along with royalty.

7.7.8.1 During test-check of inspection reports conducted by the Department/*panchnamas* in ME office, Jaipur and SME office, Bikaner, it was noticed in (June 2011 and February 2012) that in 49 cases, kiln owners used brick earth illegally without obtaining requisite permits and paying royalty. The Department, however, raised demand on the basis of actual quantity of bricks found on the spot at the time of inspection instead of cost of quantity of brick earth excavated and used in kiln in one year. The recoverable cost worked out to ₹ 3.94 crore as detailed below:

(₹ in lakh)

Sl. No.	Name of office	No. of cases	Month of *panchnama*	Recoverable cost[9]	Demand raised by the Department	Short raised demand
1.	ME, Jaipur	8	May 2010 to February 2011	140.09	11.80	128.29
2.	SME, Bikaner (ME, Bikaner)	41	October 2009 to May 2010	278.77	13.41	265.36
Total				**418.86**	**25.21**	**393.65**

The matter was pointed out to the Department and reported to the Government (August 2011 and February 2012); their replies were awaited (November 2012).

[9] Amount has been worked out on the basis of the capacity of kiln for utilising of the earth in one year.

As per DMG, Udaipur circular dated 6 December 2004, prior approval of the Superintendent Mining Engineer for cost of mineral is required before raising demand in all cases of *panchnamas* of illegal excavation and despatch of minerals.

7.7.8.2 During test-check of the file of inspection report of illegal mining in ME office, Alwar, it was noticed (September 2011) that as per *panchnama* made on 23 February 2011 by ME, the lease holders Shri Dinesh Chand Saini and Shri Kishan Lal Saini of lease number 110/98 and 111/98 respectively had excavated 43,177.40 MT[10] of masonry stone and gravel from six pits situated outside the leased areas. Notices for recovery of cost of illegally excavated and despatched minerals amounting to ₹ 67.96 lakh[11] and ₹ 27.03 lakh[12] were issued (11 March 2011) to lessees. The ME confirmed illegal excavation of minerals and the *panchnamas* were sent (10 June 2011) to SME Circle, Bharatpur for approval of cost. However approval of the Superintendent Mining Engineer for cost of mineral was not obtained and the amount has not been realised till date.

The matter was pointed out to the Department and reported to the Government (October 2011); their replies were awaited (November 2012).

7.7.9 Lacunae in Government order - short recovery of royalty

Section 9 of MMDR Act, 1957 envisages that a holder of mining lease granted under the Act shall pay royalty of the mineral removed or consumed from the leased area.
Rule 63(1) of the RMMC Rules, 1986, envisages that ME/AME may grant short term permit (STP) to a person for excavation and use of specific quantity of minerals on paying prevalent royalty of the minerals as notified under Rule 18(1) of the Rules *ibid*. The permit holder shall be responsible for submission of his record for assessment of royalty of the minerals excavated/despatched within 15 days of the expiry of the permit.

7.7.9.1 The State Government vide order dated 8 October 2008 decided that the public works contractor shall obtain, before start of work, STP for minerals to be used in the works and royalty of the minerals was to be deducted at prescribed percentage of cost of work depending on the nature of work as follows:

Nature of the work	Percentage royalty deduction
Road Construction	1.75
Building construction	1.00
Renewal of roads	0.75
Other works where mineral is used	0.50

[10] 43,177.4 MT (12285 masonry stone +30892.4 gravel)
[11] ₹ 67.96 lakh (30,892.4 MT x ₹22x10)
[12] ₹ 27.03 lakh (12,285 MT x ₹22x10)

The above order of the State Government is contrary to the provisions of Section 9 of the Act read with Rule 63 and 18(1) of the RMMC Rules which stipulated payment of royalty in advance before the mineral was removed or consumed. Actual royalty deducted on the basis of percentage of work was much less than royalty accrued on account of the consumption of the minerals in works by the contractors.

During test-check of short term permits issued to public works contractors and work orders, minerals supply orders 'G' schedules maintained in four ME/AME offices, it was noticed (October 2011-March 2012) that mineral gravel, masonry stone, soil etc. of about 6,22,801 MT were used in 46 numbers of public work. Royalty amount at the prescribed percentage of cost of works was deducted as per Government order dated 8 October 2008, which was lesser than the actual recoverable royalty amount on the basis of quantity of the minerals used in the works as shown below:

(₹ in lakh)

Name of the ME/AME	No. of works	Quantity of minerals used (as authorised in STP) (MT)	Royalty		Difference amount
			Recovered (At prescribed percentage)	Payable (as per schedule)	
Barmer	16	86,012 (Gravel)	1.75	9.02	7.27
Jaisalmer	5	84,015 (Gravel, murram etc.)	4.03	13.34	9.31
Sikar	24	1,63,574(Gravel, murram etc.)	6.30	24.48	18.18
Rajasamand-I	1	2,89,200(Bajari,gravel, gitti, ordinary soil)	28.51	41.87	13.36
Total	**46**	**6,22,801**	**40.59**	**88.71**	**48.12**

Thus, the Government order was in contravention of the provisions of the Act/Rules which resulted in short recovery of royalty of ₹ 48.12 lakh.

The matter was pointed out to the Department and reported to the Government (October 2011 to March 2012); their replies were awaited (November 2012).

7.7.9.2 During test-check of the consumptions statement of Works department and royalty deduction records in three ME/AME offices, it was found (August-December 2011) that in 29 road works, mineral gravel was used. The royalty at the rate 1.75 *per cent* of cost of work was deducted as per Government order dated 8 October 2008, which was ₹ 25.70 lakh less than the actual recoverable royalty amount as prescribed on the quantity of mineral

gravel used in works as shown below:

(₹ in lakh)

Sl. No.	Name of ME/AME office	No. of works	Quantity of mineral gravel used (In MT)	Royalty amount		Difference amount
				Deducted @ 1.75 *per cent*	payable	
1.	Balesar	10 5	88,728 59,850	1.57 0.94	8.87 5.99	7.30 5.05
2.	Nagaur	10	1,08,726	4.28	10.87	6.59
3.	Salumber	4	50,710	0.43	7.19	6.76
Total		**29**	**3,08,014**	**7.22**	**32.92**	**25.70**

Thus, in contravention of the provisions of the Act/Rules, the Government order resulted in short recovery of royalty amounting to ₹ 25.70 lakh.

The matter was pointed out to the Department and reported to the Government (October 2011 to January 2012); their replies were awaited (November 2012).

7.7.10 Loss of revenue due to non recovery of compound fee

Section 21(5) of the MMDR Act 1957, envisages that whenever any person raises any mineral from any land without any lawful authority, the State Government may recover from such person, the price thereof and royalty or tax, as the case may be.
Further, as per Government of Rajasthan circular dated 13 January 2011 read with notification dated 28 January 2011, an amount of ₹ 25,000 as compound fee was to be recovered from each vehicle carrying mineral unauthorisedly.

During test-check of the check post registers in ME office, Nagaur, it was noticed (August 2011) that cost of mineral gypsum along with royalty was recovered from owners of 193 transport vehicles (tractors and camel carts) carrying mineral unauthorisedly between 13 January and 31 March 2011 but compound fee ₹ 25,000 per vehicle recoverable as per the State Government circular dated 13 January 2011 was not recovered. This resulted in loss of revenue of ₹ 48.25 lakh[13] .

The matter was pointed out to the Department and reported to the Government (October 2011); their replies were awaited (November 2012).

[13] 48.25 lakh (193 vehicles x ₹ 25,000).

7.7.11 Short recovery of royalty of SMS grade limestone

Section 9(2) of the Mines and Minerals (Development and Regulation) Act, 1957 envisages that holder of a mining lease shall pay royalty in respect of any mineral removed from the leased area at the rate for the time being specified in respect of that mineral.

With effect from 13 August 2009 the Government of India has fixed the rate of royalty of ₹ 72 per MT for SMS grade limestone containing silica content less than 1.5 *per cent* and ₹ 63 per MT for other type of limestone.

During test-check of concession, assessment files and monthly returns in the office of the AME, Jaisalmer, it was found (March 2012) that two leases of limestone (SMS grade) were granted to M/s Rajasthan State Mines and Minerals Ltd. The lessee excavated and despatched SMS[14] grade limestone grit of different sizes (10 to 30 mm, 30 to 80 mm and of other sizes) containing silica content less than 1.5 *per cent.*

The company paid royalty at the rate of ₹ 72 per MT for the grit of 30 to 80 mm size but paid royalty at the rate of ₹ 63 per MT for the grit of 10 to 30 mm and other sizes. This resulted in a short recovery of royalty amounting to ₹ 42.40 lakh as under:

(₹ in lakh)

M.L. No.	Period	Quantity of mineral despatched MT	Royalty Recoverable @ ₹ 72 PMT	Royalty recovered @ ₹ 63 PMT	Short recovery of royalty
27/96	01.04.10 to 31.03.11	2,47,327	178.08	155.82	22.26
1/97	01.04.10 to 31.03.11	2,23,736	161.09	140.95	20.14
Total		**4,71,063**	**339.17**	**296.77**	**42.40**

After being pointed out, the Department stated (March 2012) that amount shall be recovered after raising demand.

The matter was pointed out to the Department and reported to the Government (March 2012); their replies were awaited (November 2012).

[14] SMS-steel melting shop.

7.7.12 Non-levy of interest

Section 9 (2) of the MMDR Act 1957 and the Government's instructions of April 2000 and March 2008 provide that lessee shall pay the excess royalty amount on the quantity of mineral despatched during the month. Further, Rule 64A of the MC Rules 1960, provides that lessee shall be liable to pay interest at the rate of 24 *per cent* per annum on the delayed payments for the period of delay computing from 60th day of the due date.

(i) During test-check of demand and collection registers in six ME/AME offices[15], it was found (June to October 2011) that demand of interest of ₹ 1.66 crore for delayed/ non-payments in 22 cases was not raised and recovered.

After this being point out the Department accepted the audit observation and stated that an amount ₹ 84,423 has been collected.

As per terms and conditions of the excess royalty collection contract agreement executed under Rule 37 (2) of the RMMC Rules, 1986, the contractor has to pay the instalments of the contract by 10th of the each month in advance. Interest amount is to be paid on delayed deposits at the rate of 15 *per cent* per annum for the period of delay.

(ii) During test-check of demand and collection registers in three ME offices[16], it was found (July to October 2011) that demand of interest of ₹ 32.62 lakh in 17 cases was not raised.

After this being point out the Department accepted the audit observation and stated that demand for an amount ₹ 21.20 lakh has been raised in 10 cases.

Rule 61 of the RMMC Rules, 1986 provides that interest at the rate of 15 *per cent* per annum shall be charged in case the amount of dead rent, royalty etc. is paid after 15 days from the date it becomes due.

(iii) During test-check of demand and collection register in ME office, Jaipur, it was observed (June 2011) that interest amounting ₹ 6.10 lakh on delayed payment of instalments in 67 cases of brick kiln owners was not raised and recovered.

After being pointed out, the ME stated (June 2011) that the amount will be recovered.

The matter was pointed out to the Department and reported to the Government (August and November 2011); their replies were awaited (November 2012).

[15] Ajmer,Bhartpur,Bikaner, Shriganganagar,Jaipur and Sirohi
[16] Bikaner, Jaipur and sojatcity

7.7.13 Despatch of mineral without transit pass

As per Rules 3 and 11 of the Rajasthan Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2007, no person shall carry on the business of buying, selling, storing, distributing or processing of mineral or mineral ores directly or use minerals and/or its ingredient as a raw material without being registered as a dealer under these rules. No person shall transport or carry away any mineral from any place without obtaining a transit pass from the ME/AME concerned. Whoever contravenes the provision of these rules shall be punishable under the provisions of Section 21 of the MMDR Act, 1957. As per Section 21(5) *ibid*, where the mineral is excavated/despatched unlawfully, the cost of the mineral along with royalty shall be recovered from the defaulter.

During test-check of inspection reports in AME office, Shriganganagar, it was noticed (July 2011) that M/s Shree Cement Ltd despatched 8211.91 MT of mineral 'gypsum' without transit pass between 26 January and 19 April 2010. The action of the firm was contrary to the provisions of the Rajasthan Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2007. The cost of the mineral along with royalty amounting to ₹ 29.56 lakh[17] was recoverable.

The matter was pointed out to the Department and reported to the Government (August 2011); their replies were awaited (November 2012).

7.7.14 Non-raising of demand of cost of mineral used at the stone crushers

Rule 69 of the RMMC Rules, 1986, provides that the assessing authority may summon any of the parties using and/or dealing in the mineral in the State and may demand necessary information. Any person engaged in trading of minerals shall maintain a correct account of mineral purchased, stocked and sold for inspection, if required by assessing authority, failing which the assessing authority may recover cost, along with royalty, of the mineral from the trader as per Rule 48(5) of the Rules *ibid*. The cost of the mineral will be computed as ten times the royalty payable at the prevalent rates.

During test-check of inspection reports of ME, Jaipur and AME, Balesar, it was noticed (June and December 2011) that during inspection of 31 stone crushers between January 2006 and May 2010, total 23,492 MT mineral 'masonry stone' and 'crusher grit' was found at site, but the source of procuring the mineral was not intimated by the crusher owners despite

[17] ₹ 29.56 lakh (Cost of 8211.91MT x ₹ 300 + Royalty of 8211.91MT x ₹60)

issuing show cause notices to them. The demand of cost of mineral along with royalty ₹ 25.56 lakh was not raised by the Department as mentioned below:

Name of the ME/ AME	Period of inspection	Number of cases	Quantity of mineral illegally excavated/ despatched (MT)	Cost of mineral (Ten times of royalty) PMT (₹)	Recoverable amount (₹ in lakh)		
					Cost	Royalty	Total
Balesar	23.07.2008 to 23.08.2009	2	16,792	100	16.79	1.68	18.47
Jaipur	30.01.2006 to 30.08.2006	4	1,315	80	1.05	0.11	1.16
	14.12.2007 to 29.05.2010	25	5,385	100	5.39	0.54	5.93
Total		**31**	**23,492**		**23.23**	**2.33**	**25.56**

The matter was pointed out to the Department and reported to the Government (August 2011 and January 2012); their replies were awaited (November 2012).

7.7.15 Loss of stamp duty and registration fee due to non-execution of agreement

Under the Indian Registration Act, 1908, leases of immovable property for any term exceeding one year have to be registered compulsorily. Further, Government of Rajasthan clarified in circular dated 24 November 1993 that stamp duty and registration fee are leviable on the execution of leases.

During test-check of concession files/ sanction order files in the office of the of Director, Petroleum, Rajasthan, Jaipur, it was noticed (June 2011) that 10 mining leases for mineral crude oil and natural gas were sanctioned between October 1997 and June 2010, which were effective for 20 years. However, the lease deeds were not executed and registered, resulting in non-recovery of stamp duty and registration fee amounting to ₹ 88.83 lakh.

After being pointed out, the Government stated (June 2012) that lease deeds have not been executed and registered due to non-approval of draft agreement proforma by the Central Government. Stamp Duty shall be recovered on the execution of lease deed after approval of draft agreement proforma by the Central Government.

However, the fact remains that non-execution of agreement in spite of lapse of two to 13 years resulted in non-recovery of stamp duty and registration fee amounting to ₹ 88.83 lakh.

The matter was reported to the Government (July 2011); their replies were awaited (November 2012).

(R. CHOUHAN)
Principal Accountant General
(Economic and Revenue Sector Audit), Rajasthan

Jaipur
The

Countersigned

(VINOD RAI)
Comptroller and Auditor General of India

New Delhi
The

Annexure

Annexure -A

(Refer paragraph 1.2.4)

Position of paragraphs which appeared in the Audit Reports and those pending discussion as on 30 September 2012

Name of tax		2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	Total
Taxes on Sales, Trade *etc.*	Paras appeared in the Audit Report	14	11	5	10	8	9	57
	Paras pending for discussion	2	3	5	10	8	9	37
Taxes on Vehicles	Paras appeared in the Audit Report	6	6	9	3	4	5	33
	Paras pending for discussion	-	-	9	3	4	5	21
Land Revenue	Paras appeared in the Audit Report	2	1	5	-	3	3	14
	Paras pending for discussion	-	-	-	-	3	3	06
Stamp duty and Registration fee	Paras appeared in the Audit Report	3	3	6	4	5	-	21
	Paras pending for discussion	-	-	-	-	5	-	05
State Excise	Paras appeared in the Audit Report	2	5	4	4	2	1	18
	Paras pending for discussion	-	-	-	-	2	1	03
Mining	Paras appeared in the Audit Report	9	10	8	18	1 (Stand Alone Report)	10	56
	Paras pending for discussion	-	-	-	18	1	10	29
Others	Paras appeared in the Audit Report	3	5	2	9	5	3	27
	Paras pending for discussion	1	-	1	-	5	3	10
Total	**Paras appeared in the Audit Report**	**39**	**41**	**39**	**48**	**28**	**31**	**226**
	Paras pending for discussion	**3**	**3**	**15**	**31**	**28**	**31**	**111**

Annexure-B
(Refer paragraph 1.2.4)
Position of outstanding ATNs due from the Departments as on 30 September 2012

Sl. no.	No. of PAC Report	Date of presentation in Assembly	Name of the Department	Year of Audit Report	No. of action taken notes due
1	210th Report of 2003-04	25.8.2003	Devasthan	1997-98	14
2	251st Report of 2007-08	17.3.2008	Mines	2001-02	08
3	252nd Report of 2007-08	17.3.2008	Mines	2002-03	10
4	51st Report of 2010-11	31.8.2010	Water resources and public works	2005-06 & 2006-07	01
5	52nd Report of 2010-11	15.3.2011	Water resources	2003-04	09
6	65th Report of 2010-11	15.3.2011	Devasthan	2004-05	13
7	66th Report of 2010-11	15.3.2011	Transport	2005-06	17
8	67th Report of 2010-11	15.3.2011	Transport	2006-07	09
9	87th Report of 2010-11	15.3.2011	Forest	2005-06 & 2006-07	06
10	84th Report of 2011-12	26.08.2011	Transport	2004-05	10
11	106th Report of 2011-12	26.08.2011	Land Revenue	2004-05 & 2006-07	03
12	131st Report of 2011-12	29.02.2012	Registration and Stamps	2007-08	10
13	132nd Report of 2011-12	29.02.2012	Registration and Stamps	2005-06	08
14	133rd Report of 2011-12	29.02.2012	Urban Development	2008-09	14
15	135th Report of 2011-12	29.02.2012	Registration and Stamps	2008-09	12
16	139th Report of 2011-12	29.02.2012	Land Revenue and Energy	2005-06	09
17	154th Report of 2011-12	28.03.2012	Mines	2004-05	15
18	155th Report of 2011-12	28.03.2012	Mines	2005-06	11
19	156th Report of 2011-12	28.03.2012	Mines	2006-07	10
Total					**189**