

**Report of the
Comptroller and Auditor General of India**

on

Revenue Sector

for the year ended 31 March 2013

Government of Haryana
Report No. 1 of the year 2014

TABLE OF CONTENTS

	Reference to	
	Paragraph	Page/ Remarks
Preface		v
Overview		vii-x
CHAPTER-I		
GENERAL		
Trend of revenue receipts	1.1	1
Variation between the budget estimates and actuals	1.2	4
Cost of collection of major revenue receipts	1.3	6
Analysis of arrears of revenue in terms of total outstanding and outstanding for more than five years	1.4	6
Analysis of collection	1.5	9
Evasion of tax	1.6	9
Pendency of Refund cases	1.7	10
Response of the Government Departments towards Audit	1.8	10
Failure of senior officials to enforce accountability and protect interest of the State Government	1.8.1	10
Departmental Audit Committee Meetings	1.8.2	12
Non-production of records	1.8.3	12
Response of the Departments to the draft audit paragraphs	1.8.4	13
Follow up on the Audit Reports-summarised position	1.8.5	13
Compliance with the earlier Audit Reports	1.8.6	14
Analysis of the mechanism for dealing with the issues raised by Audit	1.9	14
Position of Inspection Reports	1.9.1	15
Assurances given by the Department/Government on the issues highlighted in the Audit Report	1.9.2	16
Recovery in accepted cases	1.9.2.1	16

	Reference to	
	Paragraph	Page/ Remarks
Action taken on the recommendations accepted by the Department/Government	1.9.2.2	17
Audit planning	1.10	17
Results of audit	1.11	18
Position of local audit conducted during the year	1.11.1	18
About this Report	1.11.2	18
CHAPTER-II		
TAXES/VAT ON SALES, TRADE		
Tax administration	2.1.1	19
Results of audit	2.1.2	19
Performance Audit on “Delay in disposal of remand and revision cases”	2.2	21
Underassessment of tax due to application of incorrect rates of tax	2.3	31
Evasion of tax due to suppression of sales/purchases	2.4	33
Non/Short levy of interest	2.5	36
CHAPTER-III		
STATE EXCISE		
Tax administration	3.1.1	37
Results of audit	3.1.2	37
Non/short recovery of license fee from licensees	3.2	38
Non levy/realisation of penalty for short lifting of quarterly quota of liquor	3.3	41
Non levy/recovery of penalty for illegal possession and trade of liquor	3.4	41
CHAPTER-IV		
STAMP DUTY		
Tax administration	4.1.1	43
Results of audit	4.1.2	43

	Reference to	
	Paragraph	Page/ Remarks
Levy and collection of stamp duty and registration fee on Development Agreements	4.2	45
Short levy of stamp duty due to application of incorrect rates of immovable property	4.3	46
Short levy of stamp duty due to undervaluation of immovable property	4.4	47
Evasion of stamp duty due to misclassification of documents	4.5	48
Evasion of stamp duty due to undervaluation of immovable property	4.6	48
Undue benefit through reduction in stamp duty	4.7	49
Irregular exemption of stamp duty	4.8	49
CHAPTER-V		
TAXES ON VEHICLES, GOODS AND PASSENGERS		
Tax administration	5.1.1	51
Passengers and goods tax	5.1.1.1	51
Taxes on vehicles	5.1.1.2	51
Results of audit	5.1.2	52
Performance Audit on “Receipts from Taxes on Motor Vehicles”	5.2	53
Non/short realisation of passengers tax from Co-operative Transport Societies	5.3	63
CHAPTER-VI		
OTHER TAX AND NON-TAX RECEIPTS		
Results of audit	6.1.1	65
Recovery of dues declared as arrears of land revenue	6.2	66
MINES AND GEOLOGY DEPARTMENT		
Non/short recovery of royalty and interest	6.3	68

APPENDICES

Annexure	Particulars	Reference to	
		Paragraph	Page
I	Position of paragraphs which appeared in the Audit Reports and those pending discussion/replies not received as on 30 September 2013	1.8.5	71
II	Details of outstanding recommendations of Public Accounts Committee on which the Government is yet to take final decision	1.8.5	72
III	Details of outstanding Inspection Reports as on 31 March 2013	1.9.1	73
IV	Details of reviews and recommendations included in the Audit Reports for the years 2003-04 to 2011-12	1.9.2.2	74
V	Audit plan for the year 2012-13	1.10	75
VI	Cases where even first notice was not issued	6.2.7	76
VII	Cases where notices issued but not served	6.2.7	76
VIII	Cases where notices were served to defaulters but no further action was taken to recover the amount	6.2.7	76
GLOSSARY		77-78	

PREFACE

This Report is prepared for submission to the Governor of the State of Haryana under Article 151 of the Constitution of India for being laid before the State Legislature.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor's General (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising taxes on sales, trade/value added tax, stamp duty, state excise duty, taxes on vehicles, passengers and goods tax, 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 accounts for the period 2012-13 as well as those which had come to notice in earlier years but could not be reported in previous Audit Reports; matters relating to the period subsequent to 2012-13 have also been included, wherever necessary.

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

OVERVIEW

This Report contains 18 paragraphs including two Performance Audits on “Delay in disposal of remand and revision cases” and “Receipts from taxes on Motor Vehicles” and other observations relating to non/short levy of taxes, interest, penalty, non/short levy of excise duty, passenger and goods tax, royalty etc., involving tax effect of ₹ 636.10 crore.

1. Chapter-I

General

The total revenue receipts of the State Government for the year 2012-13 were ₹ 33,633.53 crore as compared to ₹ 30,557.59 crore during the year 2011-12. Out of this, 84 *per cent* was raised through tax revenue (₹ 23,559.00 crore) and non-tax revenue (₹ 4,673.15 crore). The balance 16 *per cent* was received from the Government of India as State's share of divisible Union taxes (₹ 3,062.13 crore) and Grants-in-aid (₹ 2,339.25 crore). The increase in Revenue receipts over the previous year by ₹ 3,075.94 crore.

(Paragraph 1.1.1)

Test check of the records of 265 units of Sales Tax/Value Added Tax, Stamp Duty and Registration fee, State Excise, Taxes on Goods and Passengers, Taxes on Vehicles, Other tax and Non-Tax receipts conducted during the year 2012-13 showed under assessments/short levy/non-levy/loss of revenue aggregating ₹ 1,735.68 crore in 7,508 cases. During the year 2012-13, the Departments accepted under assessment of ₹ 19.19 crore in 2,285 cases. Of these, the Department recovered ₹ 1.36 crore in 207 cases for the cases of earlier years.

(Paragraph 1.11.1)

2. Chapter-II

Taxes/Value Added Tax on sales, trade

A Performance Audit on “Delay in disposal of remand and revision cases” showed the following:

Number of appeal cases increased from 2,993 to 3,399 whereas remand cases increased from 717 to 1,507.

(Paragraphs 2.2.8 and 2.2.8.3)

Non finalisation of remand cases resulted in blockade of revenue of ₹ 3.20 crore in 33 cases and finalisation of 34 cases involving ₹ 3.91 crore were delayed by 20 to 42 months under HGST Act.

(Paragraphs 2.2.8.4 and 2.2.8.5)

Non finalisation of remand cases, under HVAT Act, within time frame resulted in blockade of revenue of ₹ 20.10 crore in 198 cases and delayed finalisation of time barred in 83 cases involving amount of ₹ 6.33 crore.

{{(Paragraphs 2.2.8.6 (i) and (ii)}}

Seventy six remand cases still lying pending resulted in blockade of revenue of ₹ 19.86 crore and 78 remand cases involving tax of ₹ 3.54 crore were finalised after delay ranging between one to 53 months.

{{(Paragraphs 2.2.8.7(i) and (ii)}}

Transaction audit

Incorrect application of rate of tax in respect of unclassified items in respect of 133 dealers resulted in underassessment of tax of ₹ 89.39 crore.

(Paragraph 2.3.1.1)

In 14 cases of suppression of sales/bogus claims of ITC, though the Department levied appropriate taxes but failed to levy the mandatory penalty amounting to ₹ 440.76 crore.

(Paragraph 2.4.1)

Failure of the AAs to verify the material consumed in construction and not reflected in returns resulted in underassessment of VAT amounting to ₹ 3.94 crore, besides penalty of ₹ 11.83 crore was also leviable.

(Paragraph 2.4.5.1)

3. Chapter-III

State Excise

The Department did not take action under the Rules to recover the license fee from the defaulting 119 licensees even after lapse of one to three years resulting in non recovery of license fee of ₹ 4.95 crore.

(Paragraph 3.2.1.1)

The Department did not take action to recover the differential amount of license fee from 11 defaulting allottees of retail liquor outlets, after re-auction of vends at the risk and cost clause of the contract conditions, depriving the Government of revenue of ₹ 1.45 crore.

{{(Paragraph 3.2.3 (b)}}

Non-levy of interest on delayed payment of monthly instalment of license fee from 130 licensees for the years 2010-11 and 2011-12, resulted in short recovery of ₹ 96.89 lakh to Government exchequer.

{{(Paragraph 3.2.3 (c)}}

4. Chapter-IV

Stamp Duty

The registering authorities misclassified the sale deeds as collaboration agreements instead of agreement to sell in 228 agreements resulted in short levy of stamp duty of ₹ 60.39 crore.

(Paragraph 4.2.2)

Short levy of Stamp duty of ₹ 1.95 crore on 134 sale deeds of plots with an area less than 1,000 square yards due to application of incorrect rates of agriculture land instead of residential land.

(Paragraph 4.3)

Undervaluation of immovable properties in conveyance deeds in 47 cases resulted in short levy of stamp duty of ₹ 1.02 crore.

(Paragraph 4.4.1)

5. Chapter-V

Taxes on Vehicles, Goods and Passengers

Transport Department

Performance Audit on “Receipts from Taxes on Motor Vehicles” showed the following:

The Department failed to recover token tax amounting to ₹ 35.24 lakh from private/goods vehicles in respect of 569 vehicles.

(Paragraphs 5.2.11.1 and 5.2.11.2)

Improper maintenance of cash book and inadequacy in internal control system led to embezzlement of ₹ 5.32 lakh.

(Paragraph 5.2.12.1)

The Department failed to recover additional fee of ₹ 24.20 lakh in respect of allotment of out of turn registration numbers in 242 cases.

(Paragraph 5.2.16)

Non-registration of vehicles designed to carry more than six persons excluding driver in the name of company/Firms as transport vehicles resulted in short realisation of token tax of ₹ 10.68 lakh in 35 cases besides permit fee.

(Paragraph 5.2.18)

Excise and Taxation Department (Passengers and Goods Tax)

Passengers tax amounting to ₹ 2.02 crore was not demanded by the Department in respect of buses of 144 transport co-operative societies.

(Paragraph 5.3.1)

6. Other tax and Non-tax Receipts

Revenue and Disaster Management Department

Non-accountal of revenue recovery certificates of 384 cases amounting to ₹ 90.11 crore remained unrecovered.

(Paragraph 6.2.3)

Lack of timely action by the Department as per Section 67 of PLR Act, resulted in non-recovery of ₹ 11.86 crore in 173 cases.

(Paragraph 6.2.4)

Mines and Geology Department

Royalty and interest of ₹ 14.88 lakh in respect of 69 brick kiln owners was not recovered.

(Paragraph 6.3)

CHAPTER I: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Haryana during the year 2012-13, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India (GOI) during the year and the preceding four years are mentioned in **Table 1.1**.

Table 1.1
Trend of revenue receipts

(₹ in crore)

Sr. No.	Particulars	2008-09	2009-10	2010-11	2011-12	2012-13
1.	Revenue raised by the State Government					
	• Tax revenue	11,655.28	13,219.50	16,790.37	20,399.46	23,559.00
	• Non-tax revenue	3,238.45	2,741.40	3,420.94	4,721.65	4,673.15
	Total	14,893.73	15,960.90	20,211.31	25,121.11	28,232.15
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties ¹	1,724.62	1,774.47	2,301.75	2,681.55	3,062.13
	• Grants-in-aid	1,833.96	3,257.29	3,050.62	2,754.93	2,339.25
	Total	3,558.58	5,031.76	5,352.37	5,436.48	5,401.38
3.	Total revenue receipts of the State Government (1 and 2)	18,452.31	20,992.66	25,563.68	30,557.59	33,633.53
4.	Percentage of 1 to 3	81	76	79	82	84

The above table indicates that during the year 2012-13, the revenue raised by the State Government (₹ 28,232.15 crore) was 84 *per cent* of the total revenue receipts. The balance 16 *per cent* of receipts during the year 2012-13 was from the Government of India.

¹

For details please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Haryana for the year 2012-13. Figures under the head 0021 - Taxes on income other than corporation tax - share of net proceeds assigned to States booked in the Finance Accounts under A - Tax revenue have been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

1.1.2 The details of tax revenue raised during the period 2008-09 to 2012-13 are given in **Table 1.2**.

Table 1.2
Details of Tax Revenue raised

(₹ in crore)

Sr. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase(+)/decrease(-) in 2012-13 over 2011-12
1.	Taxes on sales, trade etc./value added tax (VAT)	8,154.73	9,032.37	11,082.01	13,383.69	15,376.58	(+) 14.89
2.	State excise	1,418.53	2,059.02	2,365.81	2,831.89	3,236.48	(+) 14.29
3.	Stamps and registration fees						
	Stamps – judicial	1,030.90	945.91	848.09	99.76	169.19	(+) 69.60
	Stamps – non-judicial	267.27	341.86	1,450.33	2,646.35	3,043.15	(+) 14.99
	Registration fees	28.22	5.79	20.86	46.89	113.91	(+) 142.93
4.	Taxes on goods and passengers	370.29	391.45	387.14	429.32	470.76	(+) 9.65
5.	Taxes on vehicles	239.30	277.07	457.36	740.15	887.29	(+) 19.88
6.	Taxes and duties on electricity	106.31	119.58	130.27	166.43	191.96	(+) 15.34
7.	Land revenue	8.58	9.43	10.02	10.95	12.98	(+) 18.54
8.	Other taxes and duties on commodities and services	31.15	37.02	38.48	44.03	56.70	(+) 28.78
Total		11,655.28	13,219.50	16,790.37	20,399.46	23,559.00	(+) 15.49

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

- **Taxes on sales, trade / value added tax (VAT):** The increase in revenue receipts (15 *per cent*) was mainly due to Gross Domestic Product (GDP) growth and inflation. Large variations, however, was because of buoyancy in economy.

- **State Excise:** The increase in revenue receipts (14 *per cent*) was mainly due to increase in the quota of Country Liquor (CL) and Indian Made Foreign Liquor (IMFL) and as well as increase in license fee of CL and IMFL.
- **Stamp duty and registration fee:** The increase in revenue receipts was mainly due to registration of more documents of immovable/movable property.
- **Taxes on vehicles:** The increase in revenue receipts (20 *per cent*) was mainly due to better checking by the enforcement staff and efforts to realise tax.
- **Taxes and duties on electricity:** The increase in revenue receipts (15 *per cent*) was mainly due to realisation of more electricity duty from the consumers by the Power utilities.

1.1.3 The details of non-tax revenue raised during the period 2008-09 to 2012-13 are indicated in the **Table 1.3**.

Table 1.3
Details of Non-tax revenue raised

(₹ in crore)

Sr. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase(+)/decrease(-) in 2012-13 over 2011-12
1.	Urban development	884.50	133.70	974.54	1,039.35	990.70	(-) 4.68
2.	Interest receipts	776.28	667.88	689.34	864.96	1,058.21 ²	(+) 22.34
3.	Road transport	645.04	699.57	761.72	852.96	999.87	(+) 17.22
4.	Non-ferrous mining and metallurgical industries	195.97	247.49	82.59	75.53	75.49	(-) 0.05
5.	Other administrative services	120.95	96.81	115.63	99.95	125.86	(+) 25.92
6.	Miscellaneous general services	89.39	95.93	(-) 9.75 ³	128.49	312.30	(+) 143.05
7.	Major and medium irrigation	74.01	218.56	202.26	583.16	139.12	(-) 76.14

² Includes ₹ 454.33 crore as book adjustment of interest on irrigation project capital interest.

³ Due to more refunds than receipts.

Sr. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase(+)/ decrease(-) in 2012-13 over 2011-12
8.	Education, sports, art and culture	156.10	285.10	270.37	295.72	385.43	(+) 30.34
9.	Police	55.22	35.11	61.53	62.64	63.73	(+) 1.74
10.	Forestry and wildlife	40.74	56.13	44.32	39.12	41.36	(+) 5.73
11.	Medical and public health	30.94	30.23	47.06	54.79	78.01	(+) 42.38
12.	Other non-tax receipts	169.31	174.89	181.33	624.98	403.07	(-) 35.51
Total		3,238.45	2,741.40	3,420.94	4,721.65	4,673.15	(-) 1.03

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

- **Interest receipts:** The increase in revenue receipts (22 *per cent*) was due to higher receipts from Public Sector Undertakings.
- **Miscellaneous General Services:** The increase in revenue receipts (143 *per cent*) was due to more receipts of Guarantee Fee.

The other Departments did not inform the reasons for variations over the previous year, despite being requested (November 2013).

1.2 Variation between the budget estimates and actuals

The variation between the budget estimates and the actual receipts under the principal heads of tax and non-tax revenue for the year 2012-13 is given in Table 1.4.

Table 1.4
Details of budget estimates and actuals

(₹ in crore)					
Sr. No.	Revenue head	Budget estimates	Actual receipts	Variation increase (+)/ decrease (-)	Percentage
• Tax revenue					
1.	Taxes/VAT on sales, trade etc.	16,450.00	15,376.58	(-) 1,073.42	(-) 7
2.	State excise	3,000.00	3,236.48	(+) 236.48	(+) 8
3.	Stamp duty and registration fees	3,000.00	3,326.25	(+) 326.25	(+) 11
4.	Taxes on vehicles	750.00	887.29	(+) 137.29	(+) 18
5.	Taxes and duties on electricity	160.00	191.96	(+) 31.96	(+) 20

Sr. No.	Revenue head	Budget estimates	Actual receipts	Variation increase (+)/ decrease (-)	Percentage
6.	Land revenue	15.28	12.98	(-) 2.3	(-) 15
7.	Other taxes and duties on commodities and services	48.00	56.70	(+) 8.70	18
8.	Taxes on goods and passengers – Tax on entry of goods into local area	450.00	470.76	(+) 20.76	(+) 5
• Non-tax revenue					
1.	Non-ferrous mining and metallurgical industries	225.00	75.49	(-) 149.51	(-) 66
2.	Forestry and wildlife	45.00	41.36	(-) 3.64	(-) 8
3.	Water rates (medium irrigation)	6.76	8.20	(+) 1.44	(+) 21
4.	Interest receipts	1,080.04	1,058.21	(-) 21.83	(-) 2
5.	Urban development	1,150.00	990.70	(-) 159.3	(-) 14
6.	Police	83.22	63.73	(-) 19.49	(-) 23
7.	Medical and public health	109.63	78.01	(-) 31.62	(-) 29
8.	Public works	15.40	10.22	(-) 5.18	(-) 34

The reasons for variations between the budget estimates and actual receipts as furnished by the Departments are mentioned below:

- **Stamp duty and registration fee:** The increase in revenue receipts (11 *per cent*) was due to increase in transactions of immovable property.
- **Taxes on vehicles:** The increase in revenue receipts (18 *per cent*) was due to better checking by the enforcement staff and efforts to realise tax.
- **Land revenue:** The decrease in revenue receipts (15 *per cent*) was due to less recovery of mutation fee, copying fee and revenue talbana⁴.
- **Forestry and wildlife:** The decrease in revenue receipts (8 *per cent*) was due to less cutting of trees in reduction of area of trees by widening of roads.
- **Urban development:** The decrease in revenue receipts (14 *per cent*) was due to more refund of licence fee during 2012-13.

The other Departments did not inform the reasons for variation in actual receipts from that of the budget estimates despite being requested (November 2013).

⁴ Charges for serving summons.

1.3 Cost of collection of major revenue receipts

The gross collection of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2010-11 to 2012-13 along with the relevant all India average of percentage of expenditure of collection to gross collection for 2011-12 are mentioned in **Table 1.5**.

Table 1.5
Cost of collection of Major revenue receipts

(₹ in crore)

Sr. No.	Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2011-12
1.	Taxes/VAT on sales, trade etc.	2010-11	11,082.01	87.82	0.79	0.83
		2011-12	13,383.69	87.65	0.65	
		2012-13	15,376.58	95.85	0.62	
2.	State excise	2010-11	2,365.81	21.57	0.91	2.98
		2011-12	2,831.89	22.39	0.79	
		2012-13	3,236.48	23.87	0.74	
3.	Stamp duty and registration fee	2010-11	2,319.28	11.39	0.49	1.89
		2011-12	2,793.00	11.57	0.41	
		2012-13	3,326.25	11.70	0.35	
4.	Taxes on vehicles	2010-11	457.36	13.38	2.93	2.96
		2011-12	740.15	13.07	1.77	
		2012-13	887.29	14.39	1.62	

Source: Finance Accounts.

It would be seen from the above table that the cost of collection in respect of all the taxes was less than the All India Average for each of them.

1.4 Analysis of arrears of revenue in terms of total outstanding and outstanding for more than five years

The arrears of revenue as on 31 March 2013 in respect of some principal heads of revenue as reported by the Departments was ₹ 4,486.51 crore of which ₹ 3,166.09 crore were outstanding for more than five years as detailed in **Table 1.6**.

Table 1.6
Arrears of revenue outstanding for more than five years

(₹ in crore)

Sr. No.	Heads of revenue	Amount outstanding as on 31 March 2013	Amount outstanding for more than five years as on 31 March 2013	Remarks
1.	Taxes on sales, trade/VAT etc.	3,899.19	2,895.03	Recovery of ₹ 597.28 crore was stayed by the High Court and other judicial authorities, ₹ 9.87 crore was stayed due to the order of the Government. ₹ 19.28 crore were held up due to the dealers

Sr. No.	Heads of revenue	Amount outstanding as on 31 March 2013	Amount outstanding for more than five years as on 31 March 2013	Remarks
				becoming insolvent, ₹ 43.71 crore were proposed to be written off, ₹ 139.33 crore were held up due to rectification, review and appeal. Recovery of ₹ 170.47 crore was outstanding due to cases pending with the official liquidator/Board of Industrial and Financial Reconstruction (BIFR). Recovery of ₹ 2.71 crore was being made in instalments. Balance amount of ₹ 2,916.54 crore was at different stages of action.
2.	State excise	132.85	85.05	Recovery of ₹ 13.38 crore was stayed by High Court and other judicial authorities, ₹ 42.90 lakh was likely to be written off. Recovery of ₹ 4.97 crore was outstanding due to case pending with official liquidator/BIFR. Recovery of ₹ 1.43 crore was being made in instalment. Recovery of ₹ 15.17 crore and ₹ 9.65 crore were due to Inter State and Inter districts arrears respectively. ₹ 1.81 lakh was held up for review/rectification application. Balance of ₹ 87.80 crore was outstanding at different stages of action.
3.	Taxes and duties on electricity	140.67	85.07	₹ one crore was recoverable from M/s Haryana Concast Hisar, ₹ 38 lakh from M/s Rama Fibers Bhiwani, ₹ 30 lakh from M/s Dadari Cements, Charkhidadri and ₹ 16 lakh from M/s Competent Alloys Ballabgarh. The remaining amount of ₹ 138.83 crore was pending against the consumers of Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL)/Uttar Haryana Bijli Vitran Nigam Limited.
4.	Taxes on goods and passengers	51.32	18.03	An amount of ₹ 8.05 lakh was stayed by High Court and other judicial authorities, ₹ 27,000 was written off and balance ₹ 51.24 crore was outstanding at different stages of action.
	Tax on entry of goods into local areas (Local Area Development Tax)	209.95	47.40	Recovery of ₹ 163.15 crore was stayed by the High Court, judicial and other Departmental authorities. Recovery of ₹ 35.25 lakh was being made in instalments. Balance amount of ₹ 46.45 crore was outstanding at different stages of action.

Sr. No.	Heads of revenue	Amount outstanding as on 31 March 2013	Amount outstanding for more than five years as on 31 March 2013	Remarks
5.	Police	12.91	8.11	Recovery of ₹ 7.38 core was outstanding from Indian Oil Corporation, ₹ 29 lakh from Bhakra Beas Management Board (BBMB), ₹ 44.68 lakh from four States ⁵ and the remaining ₹ 4.79 crore was recoverable from three other States ⁶ in respect of deployment charges for Election Duty.
6.	Other taxes and duties on commodities and service Receipts under entertainment duty and show tax	14.12	13.56	Recovery of ₹ 13.78 crore had been stayed by the High court and other judicial authorities, ₹ 1.26 lakh were likely to be written off. Balance amount of ₹ 32.59 lakh was at different stages of action
7.	Non-ferrous mining and metallurgical industries	25.50	13.84	Demand of ₹ 16.51 crore were covered by recovery certificates. Recoveries of ₹ 58.04 lakh were stayed by High Court and other judicial authorities. ₹ 1.31 crore was likely to be written off. ₹ 4.98 crore were due as Inter State and Interdistrict arrears. ₹ 2.12 crore was being made in instalments.
	Total	4,486.51	3,166.09	

It would be seen from the table that recovery of ₹ 3,166.09 crore is outstanding for more than five years and no sincere efforts were being made to recover them. The position of arrears of revenue at the end of 2012-13 in respect of other Departments were not furnished (November 2013) despite being requested.

⁵ Gujarat: ₹ 1.24 lakh; Punjab: ₹ 2.33 lakh; Uttar Pradesh: ₹ 39.55 lakh and West Bengal: ₹ 1.56 lakh.

⁶ Andhra Pradesh: ₹ 42.28 lakh; Kerala: ₹ 1.89 lakh and Uttar Pradesh: ₹ 4.35 crore.

1.5 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessments of sales tax/VAT cases during the year 2012-13 and the corresponding figures for the preceding four years as furnished by the Excise and Taxation Department are mentioned in **Table 1.7**.

Table 1.7
Analysis of collection

(₹ in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalty for delay in payment of taxes and duties	Amount refunded	Net collection as per Department (3+4+5-6)
1	2	3	4	5	6	7
Taxes/ VAT on sales, trade etc.	2008-09	8,132.08	470.14	58.28	101.34	8,559.16
	2009-10	9,973.05	393.21	1.24	133.09	10,234.41
	2010-11	11,224.83	2,022.92	1.17	623.04	12,625.88
	2011-12	14,286.78	417.66	7.48	603.72	14,108.20
	2012-13	15,556.42	419.44	8.69	654.87	15,329.68

It would be seen from the above table that the revenue collected at the pre-assessment stage was more than 90 *per cent* of total revenue collection.

1.6 Evasion of tax

The details of cases of evasion of tax detected by the Excise and Taxation Department, cases finalised and demands raised as reported by the Department are given in **Table 1.8**.

Table 1.8

Heads of Department	Cases pending as on 31 March 2012	Cases detected during 2012-13	Total (2+3)	Number of cases in which assessments/ investigation completed and additional demand including penalty etc. raised during the year 2012-13		Number of pending cases as on 31 March 2013
				No. of cases	(₹ in crore)	
Taxes on sales, trade/ VAT etc.	55	1,955	2,010	1,936	8.48	74
State excise	821	2,094	2,915	2,251	1.51	664
Taxes on goods and passengers	1,153	9,189	10,342	9,034	8.70	1,308
Total	2,029	13,238	15,267	13,221	18.69	2,046

It would be seen from the above table that the number of cases pending at the close of year has slightly increased from the number of cases pending at the start of the year.

1.7 Pendency of Refund cases

The number of refund cases pending at the beginning of year 2012-13, claims received during the year, refunds allowed during the year and cases pending at the close of the year, as reported by the concerned Departments is given in Table 1.9.

Table 1.9

(₹ in crore)

Sr. No.	Particulars of claims	Sales tax/VAT		State excise	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	384	107.24	12	0.15
2.	Claims received during the year	2,932	653.33	1,214	16.09
3.	Refunds made during the year	2,942	665.30	1,203	15.90
4	Balance outstanding at the end of the year	374	95.27	23	0.34

The Haryana Sales Tax and Haryana VAT Acts provide for payment of interest at the rate of one per cent per month, if the excess amount is not refunded to the dealer within 90 days of the order and thereafter at the rate of two per cent per month till the refund is made. The department may dispose of the refund cases quickly to avoid the interest liability.

1.8 Response of the Government Departments towards Audit

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

The Principal Accountant General (Audit) Haryana (PAG) conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The Heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the PAG within four weeks from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Departments and the Government. Some of these are reported through Report of the Comptroller and Auditor General of India (Audit Report) to the State Legislature every year. The Departments are requested to submit their replies to the Public Accounts Committee (PAC) which examines them in their meetings and give their reports to the State Legislature.

IRs issued upto December 2012 disclosed that 4,464 paragraphs involving ₹ 1,871.65 crore relating to 1,890 IRs remained outstanding at the end of June 2013 as mentioned below along with the corresponding figures for the preceding two years in **Table 1.10**.

Table 1.10

	June 2011	June 2012	June 2013
Number of IRs pending for settlement	2,313	2,268	1,890
Number of outstanding audit observations	4,734	4,507	4,464
Amount involved (₹ in crore)	1,484.56	1,023.95	1,871.65

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2013 and the amount involved are given in **Table 1.11**.

Table 1.11

Sr. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1.	Excise and Taxation	Sales tax/VAT	307	1672	1,691.98
		State excise	102	183	67.79
		Taxes on goods and passengers	149	277	18.81
		Entertainment duty and show tax	18	20	10.95
2.	Revenue	Stamps and registration fees	771	1,567	55.52
		Land revenue	127	186	0.50
3.	Transport	Taxes on vehicles	301	413	9.49
4.	Power	Taxes and duties on electricity	8	8	0.46
5.	Mines and Geology	Non-ferrous mining and metallurgical industries	107	138	16.15
Total			1,890	4,464	1,871.65

Even the first replies required to be received from the heads of offices within four weeks from the date of issue of the IRs were not received for 112 IRs issued upto December 2012. This pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and heads of the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs.

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

1.8.2 Departmental Audit Committee Meetings

The Government set up Audit Committees in September 1985 to monitor and expedite the progress of the settlement of IRs including paragraphs. The Audit Committees may be formed for each Administrative Department under the chairmanship of Administrative Secretary. The meetings of these committees may be arranged once in three months to review the progress of the settlement of audit paras and monitor the pace of work in this behalf. The Chief Secretary has also impressed upon the Administrative Secretaries (August 1998) to ensure holding of Departmental Audit Committee meetings on quarterly basis and inform the Finance Department of the outcome of such meetings.

We observed that Departmental Audit Committee meetings during the year 2012-13 were not held as per the prescribed schedule.

The details of the Audit Committee meetings held during the year 2012-13 and the paragraphs settled are mentioned in **Table 1.12**.

Table 1.12

Head of revenue	Number of meetings held	Number of paragraphs settled	Amount (₹ in crore)
Stamp Duty	1	31	2.21
Taxes on sales, trade etc./VAT	2	36	2.15
State Excise	2	15	1.54
Total	5	82	5.90

During the year 2012-13, only three out of nine Departments dealing with nine major heads of tax and non-tax revenue had convened five meetings of the Audit Committee. Thus, these Departmental Audit Committees were not functioning effectively since most of the Government Departments had not taken initiatives for disposal/settlement of the pending audit paragraphs/objections through these meetings.

The Government should ensure holding of periodical meetings of the committees for effective progress.

1.8.3 Non-production of records

The programme of local audit parties of VAT receipts in the offices of Deputy Excise and Taxation Commissioner (DETC) is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit to the Departments to enable them to keep the relevant records ready for audit scrutiny.

During 2012-13, 83 VAT assessment cases out of 4,698 cases, pertaining to two DETCs were not made available to audit. Thus, VAT assessment cases involving revenue of ₹ 8.75 crore could not be checked in audit. Break-up of these cases are given in **Table 1.13**.

Table 1.13

Name of DETC	Year in which it was to be audited	Number of assessment cases not audited	Number of cases in which revenue involved could be ascertained	Revenue involved (₹ in crore)
Panipat	2012-13	68	68	8.12
Jagadhri	2012-13	15	15	0.63
	Total	83	83	8.75

1.8.4 Response of the Departments to the draft audit paragraphs

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

Twenty five draft paragraphs and two Performance Audits proposed for inclusion in the Audit Report (Revenue Sector) for the year ended 31 March 2013 were forwarded to the Secretaries of the Departments concerned during April to September 2013 through demi-official letters. No reply has been received, however, 23 paragraphs and one performance audit was discussed in the exit conferences and replies have been suitably incorporated.

1.8.5 Follow up on the Audit Reports-summarised position

According to the instructions issued by the Finance Department in October 1995 and reiterated in July 2001, the Administrative Departments were required to initiate suo motu positive and concrete action on all paragraphs and performance audits featuring in the Audit Report (Revenue Sector) regardless of the fact that the cases were taken up for examination by the PAC or not. They were also required to furnish detailed notes duly vetted by Audit indicating the remedial action taken or proposed to be taken by them within three months of the presentation of the Audit Report to the Legislature.

The position of paragraphs which have appeared in the Audit Report and those pending discussion as on 30 September 2013 has been mentioned in **Annexure I**. Eighty two paragraphs pertaining to the period 2008-09 to 2011-12 were pending for discussion by the PAC. The Administrative Departments failed to submit action taken notes (ATNs) in respect of 30 out of

82 paragraphs within three months from the date of presentation⁷ of the Audit Reports to the Legislature.

Further, the response of the Administrative Departments towards the recommendations of the PAC was not encouraging as 740 recommendations pertaining to the period 1979-80 to 2007-08 were still pending for want of final action by the concerned Departments (**Annexure II**).

1.8.6 Compliance with the earlier Audit Reports

During the years between 2007-08 and 2011-12, the Department/Government accepted audit observations involving revenue of ₹ 2,107.11 crore out of which an amount of ₹ 10.72 crore was recovered till 31 March 2013 as detailed in **Table 1.14**.

Table 1.14

(₹ in crore)			
Year of Audit Report	Total money value	Accepted money value	Recovery made
2007-08	122.75	29.65	1.93
2008-09	82.74	75.64	0.70
2009-10	346.97	72.76	3.42
2010-11	324.73	183.13	4.05
2011-12	1,746.01	1,745.93	0.62
Total	2,623.20	2,107.11	10.72

The recovery in respect of the accepted cases was 0.51 *per cent* only which indicated lack of adequate action to enforce recoveries.

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

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

To analyse the system of addressing the issues highlighted in the IRs/Audit Report by the Departments/Government, the action taken on the paragraphs and performance audits included in the Audit Report of the last 10 years in respect of Excise and Taxation Department (State Excise Duty) is evaluated and included in this Audit Report.

The succeeding paragraphs 1.9.1 to 1.9.2.2 discuss the performance of the Excise and Taxation Department (State Excise Duty) to deal with the cases detected in the course of local audit conducted during the last 10 years and also the cases included in the Audit Report for the years 2003-04 to 2011-12.

⁷ 2008-09: March 2010, 2009-10: March 2011, 2010-11: March 2012 and 2011-12: 11 March 2013.

1.9.1 Position of Inspection Reports

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

The summarised position of IRs issued during the last 10 years, paragraphs included in these reports and their status as on March 2013 are given in **Table 1.15**.

Table 1 15 .

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para - graphs	Money value	IRs	Para - graphs	Money value	IRs	Para - graphs	Money value	IRs	Para - graphs	Money value
2003-04	115	196	135.86	15	27	20.16	13	20	19.02	117	203	137.00
2004-05	117	203	137.00	17	33	23.79	20	30	23.11	114	206	137.68
2005-06	114	206	137.68	13	22	10.73	11	28	13.04	116	200	135.37
2006-07	116	200	135.37	09	11	5.27	19	34	12.58	106	177	128.06
2007-08	106	177	128.06	21	39	15.33	16	28	18.23	111	188	125.16
2008-09	111	188	125.16	34	65	20.92	25	45	74.50	120	208	71.58
2009-10	120	208	71.58	36	55	11.04	40	92	23.70	116	171	58.92
2010-11	116	171	58.92	19	60	29.07	30	53	17.48	105	178	70.51
2011-12	105	178	70.51	14	33	4.89	13	33	20.30	106	178	55.10
2012-13	106	178	55.10	27	80	20.87	34	87	13.28	99	171	62.69

The year-wise details of closing balance of IRs, paragraphs and amount involved is given in **Annexure-III**. Out of 171 audit observations involving revenue of ₹ 62.69 crore in 99 IRs, 35 audit observations involving revenue of ₹ 32.46 crore (52 per cent) in 27 IRs were more than five years old.

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

To ensure that the revenue due does not become time barred, the Government may ensure that:

- an effective procedure exists for prompt and appropriate response to the audit observations;
- action is taken against officials/officers failing to take effective steps to get the audit observations settled at the earliest after initiating appropriate action on audit observations; and
- action is taken to recover loss/outstanding demands in a time bound manner.

1.9.2 Assurances given by the Department/Government on the issues highlighted in the Audit Report

1.9.2.1 Recovery in accepted cases

The position of paragraphs included in the Audit Report of the last 10 years, those accepted by the Department and the amount recovered are given in **Table 1.16**.

Table 1.16

(₹ in crore)						
Year of Audit Report	Number of paragraphs included	Money value of the paragraph	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases
2002-03	2	1.45	2	1.45	1	0.21
2003-04	1	11.36	1	11.36	-	-
2004-05	4	2.90	4	2.90	2	0.08
2005-06	-	-	-	-	-	-
2006-07	2	0.48	2	0.48	1	0.01
2007-08	2	1.23	2	1.23	1	0.03
2008-09	4	2.35	4	2.35	3	0.09
2009-10	2	5.65	2	5.65	2	0.10
2010-11	-	-	-	-	-	-
2011-12	3	4.75	3	4.75	1	0.05
Total	20	30.17	20	30.17	11	0.57

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

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

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

The draft performance audits conducted by the PAG are forwarded to the concerned Departments/Government for their information with a request to furnish their replies within 45 days. These performance audits are also discussed in an exit conference and the Departments/Government's views are included while finalising the performance audits for the Reports of the Comptroller and Auditor General of India.

The issues highlighted in the Performance Audits including recommendations on the Excise and Taxation Department relating to State Excise Duty featured in the Report of Comptroller and Auditor General of India. The Head of the Departments/Government had not intimated their acceptance or any action taken on the nine recommendations (**Annexure- IV**) included in the two Reports of the Comptroller and Auditor General of India during the years 2003-04 to 2011-12 for the levy and realisation of State Excise Duty.

We observed that the Excise and Taxation Department (State Excise)/Government had sent their replies to the PAC relating to performance audits included in the Report of Comptroller and Auditor General of India for the years 2003-04 to 2007-08. But they had not given any reply either accepting or otherwise of the conclusions and recommendations of the Report of the Comptroller and Auditor General of India for the year 2005-06. They had not furnished replies to the PAC for the Audit Reports for the years 2009-10 to 2011-12.

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

1.10 Audit planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue earning, past trends of audit observations etc. 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 2012-13, 265 units were planned and audited out of 497 auditable units constituting audit of 53 *per cent* of the total units. The details of auditable units and units selected are shown in the **Annexure-V**.

Besides the compliance audit, two Performance Audits namely ‘Delay in disposal of remand and revision cases’ and ‘Receipts from taxes on motor vehicles’ were also taken up to examine the efficacy of the tax administration of these receipts.

1.11 Results of audit

1.11.1 Position of local audit conducted during the year

Test check of the records of 265 units of sales tax/VAT, stamp duty and registration fee, State excise, motor vehicles and other Departmental offices conducted during the year 2012-13 noticed underassessments/short levy/loss of revenue in 7,508 cases aggregating ₹ 1,735.68 crore. During the course of the year, the concerned Departments accepted underassessments and other deficiencies of ₹ 19.19 crore involved in 2,285 cases, out of which ₹ 9.86 crore involved in 2,147 cases were pointed out in audit during 2012-13 and the rest in the earlier years. The Departments collected ₹ 1.36 crore in 207 cases during the year 2012-13 for the cases of earlier year.

1.11.2 About this Report

This Report contains two **Performance Audits on “Delay in disposal of remand and revision cases”** and **“Receipts from taxes on motor vehicles”**, and 16 paragraphs relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of ₹ 636.10 crore.

The Departments/Government have accepted audit observations involving ₹ 629.33 crore out of which ₹ 1.75 crore has been recovered. The replies in the remaining cases had not been received (November 2013). These are discussed in succeeding Chapters II to VI.

CHAPTER II: TAXES/VAT ON SALES, TRADE

2.1.1 Tax administration

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

2.1.2 Results of audit

Test check of the records relating to assessments and refunds of sales tax/VAT in Excise and Taxation Department, conducted during the year 2012-13 noticed irregularities in assessments, levy and collection of tax involving ₹ 1,640.32 crore in 1,197 cases, which broadly fall under the categories mentioned in **Table 2.1**.

Table 2.1

(₹ in crore)

Sr. No.	Category	Number of cases	Amount
1.	Performance Audit on “ <i>Delay in disposal of remand and revision cases</i> ”	01	0.45
2.	Underassessment of tax due to application of incorrect rates of tax	01	91.81
3.	Evasion of tax due to suppression of sales/purchases	01	456.53
4.	Non-levy of penalty	102	486.83
5.	Under-assessment of turnover under Central Sales Tax Act	91	256.75
6.	Application of incorrect rates of tax	197	68.60
7.	Non-levy of interest	55	12.58
8.	Incorrect computation of turnover under VAT	55	12.10
9.	Other irregularities	694	254.67
	Total	1,197	1,640.32

During the course of the year 2012-13, the Department accepted underassessment and other deficiencies amounting to ₹ 8.82 crore in 105 cases, out of which ₹ 1.23 lakh involved in three cases were pointed out during the year and rest in the earlier years. The Department recovered ₹ 67.43 lakh in 46 cases during the year 2012-13, out of which ₹ 53,324 involved in two cases were pointed out during the year and rest in the earlier years.

One Performance Audit on **“Delay in disposal of remand and revision cases”** involving tax effect of ₹ 45.26 lakh and a few illustrative audit observations involving ₹ 554.19 crore are mentioned in the succeeding paragraphs.

2.2 Delay in disposal of remand and revision cases

2.2.1 Highlights

- Number of appeal cases increased from 2,993 to 3,399 whereas remand cases increased from 717 to 1,507.

(Paragraphs 2.2.8 and 2.2.8.3)

- Non finalisation of remand cases resulted in blockade of revenue of ₹ 3.20 crore in 33 cases and finalisation of 34 cases involving ₹ 3.91 crore were delayed by 20 to 42 months under HGST Act.

(Paragraphs 2.2.8.4 and 2.2.8.5)

- Non finalisation of remand cases, under HVAT Act, within time frame resulted in blockade of revenue of ₹ 20.10 crore in 198 cases and delayed finalisation of time barred in 83 cases involving amount of ₹ 6.33 crore.

{(Paragraphs 2.2.8.6 (i) and (ii))}

- Seventy six remand cases still lying pending resulted in blockade of revenue of ₹ 19.86 crore and 78 remand cases involving tax of ₹ 3.54 crore were finalised after delay ranging between one to 53 months.

{(Paragraphs 2.2.8.7(i) and (ii))}

2.2.2 Introduction

The HVAT Act and Central Sales Tax Act, 1956 (CST Act) and Rules framed thereunder govern the levy, assessment and collection of VAT. Under section 33 of HVAT ACT, an assessee considering himself aggrieved by an original order passed under the act or rules can file an appeal to the Departmental Appellate Authorities within 60 days from the date of receipt of the copy of the assessment order. The Act provides that no appeal shall be entertained unless Appellate Authority is satisfied that the amount of tax assessed and penalty and interest, if any, recoverable has been paid. The Appellate Authority, if satisfied that the assessee is unable to pay the whole amount of tax assessed or the penalty imposed or the interest due may, for reasons to be recorded in writing, entertain the appeal and stay the recovery of balance amount subject to the furnishing of a bank guarantee or adequate security to his satisfaction. The Appellate Authority may either reject or accept the appeal and allow the relief sought or may remand the case back to the Assessing Authority (AA) for re-assessment. Section 18 (1) of HVAT Act provides a limitation period of two years to dispose of remand cases.

Section 34 of the HVAT Act and Rules, framed thereunder provides that the Commissioner may, on his own motion, call for the records of any case pending before or disposed of by any officer appointed under the Act to assist him or any AA, for the purposes of satisfying himself as to the legality or to propriety of any proceeding or of any order made therein and may pass such

order in relation thereto as he may think fit provided that no order shall be so revised after the expiry of the period of three years from the date of the order.

No time limit was prescribed for re-assessment cases under the Haryana General Sales Tax Act 1973 (HGST Act). However, the ETC, in his instruction of July 1997 and subsequently in July 2005 directed all AAs to decide remand cases within six months from the date of receipt of copy of remand order.

2.2.3 Organisational set up

The monitoring and Control at Government level is done by the Principal Secretary to Government of Haryana, Excise and Taxation Department. The overall control of the VAT vests with the ETC who is assisted by nine Additional Excise and Taxation Commissioners (Addl. ETCs), 10 Joint Excise and Taxation Commissioners (JETCs), 23 Deputy Excise and Taxation Commissioners {DETCs (ST)} and ETOs and other allied staff in the administration and implementation of the Act.

There are three JETCs (Appeals) at Ambala, Rohtak and Faridabad who are functioning as Appellate Authorities. Four JETCs (Range) at Ambala, Hisar, Gurgaon and Faridabad and {DETC (ST) (Inspection)} are revisional authorities. Besides, the ETC, as the Revisional Authority, may also remand the cases to the AAs for re-assessment.

2.2.4 Audit Objectives

The objectives of the performance audit are to ascertain whether:-

- the efficacy of the system in vogue in respect of disposal of remand/re-assessment cases is satisfactory;
- compliance to the procedures/codal provisions and executive instructions relating to disposal remand and revision cases was made to ensure timely disposal of remand cases; and
- internal control mechanism existed to ensure disposal of remand cases in time.

2.2.5 Audit Criteria

The audit criteria was derived from the following sources:

- HGST Act 1973, HVAT Act 2003, CST Act, 1956 and Rules framed thereunder. Haryana Government notifications for finalisation of appeal cases.
- Guidelines and notifications of Haryana Government relating to assessment/reassessment of remand cases.
- Guidelines and notifications of Haryana Government relating to finalisation of cases by revisional authorities.
- Any mention of the subject in the Department's activity/appraisal reports.

2.2.6 Scope and methodology of audit

The records relating to remand and revision cases of two¹, out of three Appellate Authorities and ten DETCs (ST) offices² out of 23 DETCs (ST) offices for the year 2009-10 to 2011-12 were test checked between December 2012 and July 2013. We selected ten DETCs (ST) on random sample selection basis by applying probability proportional to size method (without replacement).

2.2.7 Acknowledgement

We acknowledge the co-operation of Excise and Taxation department in providing necessary information and records for facilitating audit. An entry conference was held (February 2013) with the Principal secretary to Government of Haryana, Excise and Taxation Department wherein the audit objectives, methodology and criteria adopted for selection of districts were explained. The draft Performance Audit Report was sent for comments to the Department and Government in September 2013. An exit conference was held on 17 October 2013 with the Principal Secretary to Government of Haryana (Excise and Taxation Department), ETC, AETCs and other officers. An exit conference was again held (January 2014) with the Department/ Government. The views of the Department/Government have been appropriately incorporated in the Performance Audit.

2.2.8 Trend of appeals filed and their disposal

The position of appeal cases for the years 2009-10 to 2011-12 as furnished by JETC (Appeal) Ambala, Faridabad and Rohtak is given in **Table 2.2**.

Table 2.2

Sr. No.	Particulars	2009-10	2010-11	2011-12
1	Number of appeal cases brought forward	2,993	3,218	3,507
2	Number of appeal cases arising during the year	2,856	2,599	2,253
	Total	5,849	5,817	5,760
3	i. Number of appeal cases finalised/ transferred i.e. remanded to the AA during the year.	1,392	1,328	2,107
	ii. Number of appeals rejected	1,239	982	254
4	Number of appeal cases pending at the end of the year	3,218	3,507	3,399

It would be seen from the above table that the number of appeal cases had increased from 2,993 to 3,399 during the period from 2009-10 to 2011-12.

During exit conference ETCs stated that a State policy on appeal cases will be framed shortly (January 2014).

¹ Faridabad and Rohtak.

² Bhiwani, Faridabad (W), Fatehabad, Gurgaon (W), Hisar, Jagadhri, Karnal, Rewari, Rohtak and Sirsa.

2.2.8.1 Non compliance of directions of ETC

To avoid delay in remand cases, ETC Haryana, had issued instructions to the entire JETC (Appeal) in July 2005 that all remand cases should be served upon the dealer within two months after release of order/decision to the concerned AAs.

During test check of records of JETC (A) Rohtak in March 2013, we noticed that 56 remand cases orders were served upon the dealers/AA after delay ranging between seven to 183 days (excluding initial two months) during 2009-10 to 2011-12.

During exit conference (January 2014), all DETCs assured that instructions will be followed in future.

2.2.8.2 Non maintenance of records

To monitor remand cases, ETC in his instructions of July 1997 prescribed appeal register to be maintained in each DETC (ST) office. The register serves as a monitoring tool for watching the receipt and disposal of remand cases.

During test check of remand cases between December 2012 and July 2013, we noticed in eight DETCs (ST) offices³ that registers of the cases remanded by Appellate Authorities during the period 2009-10 to 2011-12 were not maintained.

During exit conference (January 2014), DETCs stated that appeal registers will now be maintained separately.

2.2.8.3 Disposal of Remand Cases

The number of remand cases pending at the beginning of the year received and disposed of during the years 2009-10 to 2011-12 and cases pending at the close of the year in the test checked 10 DETCs (ST) are mentioned in **Table 2.3**.

Table 2.3

(Number of cases)						
Sr. No.	Year	Opening Balance	Cases received during the year	Total	Cases disposed of	Cases pending disposal
1	2009-10	717	713	1,430	563	867
2	2010-11	867	534	1,401	539	862
3	2011-12	862	1,009	1,871	364	1,507
Total		2,446	2,256	4,702	1,466	3,236

During exit conference (January 2014), ETC stated that the Department will amend the Act and issue guidelines to finalise these cases.

³ Bhiwani, Faridabad (W), Fatehabad, Gurgaon (W), Jagadhri, Karnal, Hisar and Rewari.

2.2.8.4 Cases pending for finalisation under HGST Act

Under the HGST Act, no time limit was prescribed for re-assessment of remand cases. However, the ETC had issued instructions in July 1997 to all AAs to decide remand cases within six months from the date of receipt of copy of remand order.

During test check of remand cases between December 2012 to July 2013, in seven DETCs (ST) offices⁴, we noticed that 33 cases pertaining to the period from 1977-78 to 2002-03 involving tax of ₹ 3.20 crore were referred for reassessment between July 2007 and November 2011. These cases were still lying pending for finalisation. The delay was ranging between 18 and 60 months, as detailed in **Table 2.4**.

Table 2.4

Reassessments pending	Number of cases	Amount (₹ in crore)
After 12 months but up to 24 months	6	1.86
After 24 months but up to 36 months	7	0.56
After 36 months but up to 48 months	7	0.05
After 48 months but up to 60 months	13	0.73
Total	33	3.20

During exit conference (January 2014), the Principal Secretary directed all DETCs concerned to finalise the remand cases by 30 June 2014.

2.2.8.5 Cases finalised after a delay of six months (under HGST Act)

Under the HGST Act, no time limit was prescribed for re-assessment of remand cases. However, the ETC had issued instructions in July 1997 to all AAs to decide remand cases within six months from the date of receipt of copy of remand order.

During test check of remand cases in three DETCs (ST) offices⁵ between December 2012 to July 2013, we noticed that 34 cases pertaining to the assessment years 1997-98 to 2002-03 involving tax liability of ₹ 3.91 crore were referred for reassessment between July 2007 and August 2009. These cases were finalised after a period of six months between April 2009 and

⁴ Fatehabad, Gurgaon (W), Hisar, Jagadhri, Karnal, Rewari and Sirsa.

⁵ Faridabad (W), Jagadhri and Gurgaon (W).

May 2012. The delay in final action of remand cases was ranging between 20 and 42 months, as detailed in **Table 2.5**.

Table 2.5

Reassessments finalised	Number of cases	Amount (₹ In crore)
After 12 months but up to 24 months	7	1.23
After 24 months but up to 36 months	21	2.15
After 36 months but up to 48 months	6	0.53
Total	34	3.91

In DETC (ST) Faridabad (W) in three cases of a dealer were remanded to the AAs by the Appellate Authority on 8 February 2005 for de novo assessment for the years 2000-01 to 2002-03. Assessments for these years were finalised in March 2011 by creating additional demand of ₹ 74.25 lakh. However, notice of recovery of outstanding tax could not be served as the proprietor of the firm was not traceable. Hence, purpose of creating additional demand was defeated.

During exit conference (January 2014), the Principal Secretary directed all DETCs concerned to finalise the remand cases by 30 June 2014.

2.2.8.6 Disposal of remand cases under HVAT Act

(i) Cases pending for finalisation under HVAT Act

Section 18 of the HVAT Act provides limitation period of two years to dispose of remand cases. ETC had also advised (March 2012) all the DETCs (ST), about the necessity of quick disposal of all such cases within limitation period as provided under the Act. It was also made clear that if any remand case becomes time barred, then the concerned AA will be personally held responsible for the same.

During test check of remand cases in eight DETCs (ST) offices⁶ between December 2012 to July 2013 we noticed that 198 cases involving tax of ₹ 20.10 crore, remanded between April 2007 and June 2011, pertaining to the period from 2003-04 to 2007-08 were pending for finalisation though more

⁶ Bhiwani, Faridabad (W), Fatehabad, Gurgaon (W), Hisar, Jagadhri, Karnal and Rewari.

than two years had elapsed from the date of receipt of order. The delays ranged between 1 to 49 months, as detailed in **Table 2.6**.

Table 2.6

Reassessments pending	Number of cases	Amount (₹ In crore)
After one month but up to 12 months	56	4.14
After 12 months but up to 24 months	71	6.23
After 24 months but up to 36 months	51	7.27
After 36 months but up to 48 months	19	2.38
After 48 months but up to 60 months	1	0.08
Total	198	20.10

During exit conference (January 2014), the ETC stated that action would be taken against the officer in case of default.

(ii) Cases finalised after two years under HVAT Act

During test check of remand cases in nine DETCs (ST) offices⁷, we noticed between December 2012 and July 2013 that 83 cases pertaining to the period from 2003-04 to 2008-09 involving tax of ₹ 6.33 crore were referred between July 2007 and January 2011. These were finalised between April 2009 and April 2013 with a delay ranging between 1 and 46 months as detailed in **Table 2.7**.

Table 2.7

Reassessments finalised (excluding initial two years)	Number of cases	Amount (₹ In crore)
After one month but up to 12 months	52	4.82
After 12 months but up to 24 months	16	0.79
After 24 months but up to 36 months	10	0.59
After 36 months but up to 48 months	5	0.13
Total	83	6.33

Thus, the above mentioned 83 cases were finalised after becoming time barred but no action was taken by the department against the defaulting officers/officials.

⁷ Bhiwani, Faridabad (W), Fatehabad, Gurgaon (W), Hisar, Jagadhri, Karnal, Rewari and Rohtak.

During exit conference (January 2014), the Principal Secretary has sought the views of all DETCs in this regard in writing.

2.2.8.7 Non compliance of directions of the Appellate Authority

(i) Non finalising the reassessments

JETC (Appeal)⁸, while remanding the cases to the concerned AAs, directed to reassess the cases in a particular time frame between one to three months.

During test check of remand cases in four DETCs (ST) offices⁹, we noticed between December 2012 and July 2013 that 76 cases pertaining to the period from 1998-99 to 2007-08 involving tax of ₹ 19.86 crore, referred between July 2007 and March 2012, were still pending. Delay was ranging between eight to 104 months, as detailed in **Table 2.8**.

Table 2.8

Reassessments pending	Number of cases	Amount (₹ In crore)
After one month but up to 12 months	3	0.33
After 12 months but up to 24 months	3	0.16
After 24 months but up to 36 months	15	3.04
After 36 months but up to 48 months	20	14.23
After 48 months but up to 60 months	29	1.94
After 60 months but up to 120 months	6	0.17
Total	76	19.86

In the meantime, 23 dealers (28 cases) involving tax of ₹ 12.26 crore had closed their business and the proprietors of the firms were not traceable. Thus the possibility of recovery in these cases was remote.

During exit conference (January 2014), ETC stated that directions will be issued to dispose of these cases without any further delay.

⁸ Ambala, Faridabad (W) and Rohtak.

⁹ Bhiwani, Gurgaon (W), Karnal and Sirsa.

(ii) Delay in finalisation of remand cases

During test check of remand cases in ten DETCs (ST) offices¹⁰, we noticed between December 2012 and July 2013 that 78 cases pertaining to the period from 1999-2000 to 2007-08 involving tax of ₹ 3.54 crore, referred between August 2007 and August 2011 were finalised after delay ranging between one to 53 months, as detailed in **Table 2.9**.

Table 2.9

Reassessments finalised	Number of cases	Amount (₹ In crore)
After one month but up to 12 months	31	1.29
After 12 months but up to 24 months	24	1.71
After 24 months but up to 36 months	9	0.23
After 36 months but up to 48 months	8	0.10
After 48 months but up to 60 months	6	0.21
Total	78	3.54

During exit conference (January 2014), ETC stated that directions will be issued to dispose of such cases without any further delay.

2.2.9 Revision cases

Section 34 of the HVAT Act provides that the Commissioner may, on his own motion, call for the records of any case pending before or disposed of by any officer appointed under the Act to assist him or any AA, for the purposes of satisfying himself as to the legality or to propriety of any proceeding or of any order made therein and may pass such order in relation thereto as he may think fit provided that no order shall be so revised after the expiry of the period of three years from the date of the order.

In eleven cases of four DETCs (ST)¹¹, DETC (Inspection) called for assessment files and remanded them back to concerned AA for verification. Out of these, three cases involving an amount of ₹ 0.27 crore were pending for verification and in remaining eight cases additional demand of ₹ 0.44 crore was created but the same had not been realised.

During exit conference (January 2014), DETC Rewari stated that efforts are being made to recover the balance amount.

¹⁰ Bhiwani, Faridabad (W), Fatehabad, Hisar, Jagadhri, Karnal, Rewari, Rohtak, Gurgaon (W) and Sirsa.

¹¹ Fatehabad, Hisar, Karnal and Rewari.

2.2.10 Evasion of tax by submitting fake declaration Form

Section 8 (4) of the CST Act provides that the concession under sub section (1) shall not apply to any sale in the course of interstate trade or commerce unless the dealer furnishes to the AA a declaration form duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in the form. The ETC issued instructions in March 2006 that in the cases of specific traders (selected for scrutiny), all transactions totaling more than ₹ one lakh from a single VAT dealer in a year should be cross verified.

In seven DETCs (ST) offices¹², eleven dealers claimed concessional rate of tax on declaration forms 'C' and 'F' for sale value of ₹ 5.74 crore during the years 2009-10 to 2011-12 which were found fake on cross verification of forms resulting in evasion of tax amounting to ₹ 45.26 lakh besides penalty of ₹ 1.36 crore was also leviable.

During exit conference (January 2014), ETC advised the DETCs to register cases/FIRs against such fraudsters under the Act.

2.2.11 Internal control

To have an effective internal control, the Department prescribed statements/returns to be furnished by the DETCs (ST) to ETC every month.

Scrutiny of records in the ETC, Haryana showed that the prescribed returns showing the receipt and disposal of remand and revision cases were not received from the DETCs and there was no monitoring at the Department level and coverage of internal audit was also not adequate. The irregularities discussed in audit paragraphs 2.2.8.1 to 2.2.8.5 are indicators of ineffective internal control mechanism.

2.2.12 Conclusion

The abnormal delay in finalisation of remand and revision cases resulted in non realisation of Government revenue. The instructions issued by ETC were not adhered to by the AAs in finalisation of assessment cases. There was lack of internal control mechanism in the department to ensure disposal of remand/revision cases in a timely manner.

2.2.13 Recommendations

For speedy settlement of cases, the State Government may consider the following steps to improve the effectiveness of the system:-

- Records like appeal register of remand cases essential for monitoring the remand cases at Joint Commissioner (Appeal)/DETC/AA wise be maintained as per the provisions of the Act/instructions.
- Assessment cases may be given more attention and the provisions of the Act and instructions issued by the department should be complied with.
- To put in place effective internal control mechanism to ensure compliance of the Act.

¹²

Faridabad (W), Fatehabad, Gurgaon (W), Jagadhri, Karnal, Rohtak and Sirsa.

2.3 Underassessment of tax due to application of incorrect rates of tax

2.3.1 Non /Short levy of tax

2.3.1.1 Under section 7(1) (a)(iv) of the HVAT Act, any commodity classified in Schedule C is taxable at the rate of four *per cent* and the unclassified commodities are taxable at the rate of 12.5 *per cent* with effect from 1 July 2005. Further, interest is also leviable under section 14 (6) of the HVAT Act, if any dealer fails to make payment of tax.

In 21 DETC (ST)¹³, 133 dealers had sold goods valued as ₹ 1,078.97 crore during 2004-05 to 2009-10 and paid tax of ₹ 27.19 crore against the payable tax of ₹116.58 crore, due to misclassification of goods. The AA accepted the claims of the dealers. This resulted in non/short levy of tax of ₹ 89.39 crore, besides interest of ₹ 64.98 crore is also leviable as per details given in **Table 2.10**.

Table 2.10

(₹ in crore)

Sr. No	No. of DETC	No. of dealers	Name of goods	Sale Value	Period of sales	Tax leviable	Tax levied	Tax short/ non levied	Interest
1	5	20	Guar Gum	163.11	2007-08 to 2009-10	20.39 @ 12.5 %	nil	20.39	12.54
2	12	41	High Density Polyethylene Fabric	179.74	2006-07 to 2009-10	7.19 @ 4 %	nil	7.19	4.91
3	4	7	Narrow Woven Fabric	27.85	2006-07 to 2009-10	1.11 @ 4 %	nil	1.11	0.71
4	2	2	Submersible pumps	3.21	2008-09 to 2009-10	0.40 @ 12.5 %	0.08	0.32	0.16
5	9	14	Tractor parts, Corn, Springs, Readymade garments, Lease rent	17.78	2005-06 to 2009-10	1.63 @ 4 % or 12.5 %	nil	1.63	1.08
6.	1	1	Laminated cloth, foam	16.10	2007-08 and 2009-10	2.01 @ 12.5 %	nil	2.01	---
7	1	2	Railway Track Machine	194.33	2006-07, 2008-09, and 2009-10	24.29 @ 12.5 %	7.81 @ 4 %	16.48	13.22
8	3	9	Material Handling Equipment	244.75	2007-08 to 2008-09	30.59 @ 12.5 %	9.57 @ 4 %	21.02	17.56

¹³ Ambala, Bhiwani, Fatchabad, Faridabad (E), Faridabad (W), Gurgaon (E), Gurgaon (W), Hisar, Jagadhri, Jind, Jhajjar at Bahadurgarh, Kaithal, Karnal, Mewat, Panchkula, Panipat, Palwal, Rewari, Rohtak, Sirsa and Sonipat.

Sr. No	No. of DETC	No. of dealers	Name of goods	Sale Value	Period of sales	Tax leviable	Tax levied	Tax short/ non levied	Interest
9	5	10	Pipe Fittings	73.9	2007-08 to 2009-10	9.2 @ 12.5 %	2.96 @ 4 %	6.24	5.08
10	4	10	Machinery Parts/Auto Parts	49.81	2005-06 to 2008-09	6.22 @ 12.5 %	1.99 @ 4 %	4.23	3.36
11	1	4	Scaffoldings	9.73	2008-09	1.22 @ 12.5 %	0.39 @ 4%	0.83	0.69
12	7	13	Soaps, Ready Mix Concrete, Surgical Cotton, Tiles, Leaf Springs, Mosquito Repellent, OT table, Fire fitting Equipments, PPC Poles etc.	98.66	2005-06 to 2009-10	12.33 @ 12.5 %	4.39 @ 4 %	7.94	5.67
			Total	1,078.97		116.58	27.19	89.39	64.98

On these being pointed out, the Department accepted the audit observations in exit conference (October 2013).

2.3.1.2 Section 2 (1) (zt) of HVAT Act defines Work Contract as an agreement between contractor and contractee which includes carrying out for cash, deferred payment or other valuable consideration, the assembling, construction, building, altering, manufacturing, processing, fabrication, installation, fitting out, improvement, repair or commissioning of any moveable or immovable property. As such, agreement or contract entered into by the developers or others with prospective customers for sale of fully constructed apartments or flats before the commencement of actual construction or before completion of construction, should be treated as agreements or contracts for execution of works contract of construction of building as held by the Hon'ble Supreme Court in the case of K. Raheja Development Corporation v/s State of Karnataka (reported in 141 STC at Page 298) dated 15 August 2005.

In the office of DETC (ST) Faridabad (West), a lump sum dealer had received income of ₹ 90.32 crore from real estate projects which included material worth ₹ 81.06 crore. The dealer was liable to pay tax as work contractor on the amount received from the prospective purchasers. The dealer, however, deducted tax at source of ₹ 1.70 crore on ₹ 42.41 crore from the sub-contractors and deposited the same. The AA while finalising assessment in November 2011 also levied tax on ₹ 42.40 crore instead of correct amount of ₹ 81.06 crore. This resulted in non- levy of tax of ₹ 2.34 crore including interest of ₹ 0.80 crore.

During exit conference the Department accepted the audit observation. The ETC further stated that Hon'ble Apex court had also upheld that tax would be levied accordingly.

2.4 Evasion of tax due to suppression of sales/purchases

As per the provisions of Section 38 of HVAT Act, 2003 (Section 48 of erstwhile HGST Act), if a dealer has maintained false or incorrect accounts or documents with a view to suppress his sales, purchases, imports into State, exports out of State, or stocks of goods, or has concealed any particulars in respect thereof or has furnished to or produced before any authority under this Act or the rules made thereunder any account, return, document or information which is false or incorrect in any material particular, such authority may, after affording such dealer a reasonable opportunity of being heard, direct him to pay by way of penalty, in addition to the tax to which he is assessed or is liable to be assessed, a sum thrice (twice under Section 48 of HGST Act) the amount of tax which would have been avoided had such account, return, document or information, as the case may be, been accepted as true and correct.

2.4.1 Non-levy of penalty for bogus ITC claim/sale suppression

During test check of assessment records of six DETC (ST) Offices¹⁴ between May 2008 and June 2013, we noticed that the AAs while framing assessments in 14 cases between March 2008 and March 2012 had held that:

- (a) Eight dealers had claimed ITC of ₹ 4.79 crore on bogus purchases;
- (b) Three dealers had suppressed sales involving tax of ₹ 1.52 crore; and
- (c) Three dealers had claimed interstate sale as branch transfer out of state against F forms involving tax of ₹ 165.21 crore.

For the above defaults, tax and penalty were required to be levied as per the provisions of Section 38 of HVAT Act, 2003. The AAs, however, rejected the ITC claims and levied tax only but did not levy penalty of ₹ 440.76 crore.

On this being pointed out, the AAs Faridabad (W) and Panipat had created demand of ₹ 423.55 crore in five cases. The Department also accepted the audit observation during exit conference (October 2013) and the ETC directed departmental officers to examine the cases in detail and to register cases/lodge FIRs against such fraudsters under the Act.

2.4.2 Suppression of sale

- (i) In five DETC (ST) Offices¹⁵, we noticed that 13 dealers had suppressed sale of ₹ 29.11 crore during 2005-06 to 2008-09 involving tax effect of ₹ 2.07 crore, besides penalty of ₹ 6.23 crore is also leviable.

On this being pointed out, the AAs Faridabad (W) and Gurgaon had created demand of ₹ 2.25 crore in three cases. The Department also accepted the audit observations during exit conference.

¹⁴ Faridabad (E)-2; Faridabad (W)-3; Jagadhri-2; Panipat-4; Rewari-2 & Sonipat-1.

¹⁵ Faridabad (E); Faridabad (W); Gurgaon (E); Gurgaon (W) and Karnal.

(ii) In six DETC (ST) Offices¹⁶, in eight cases, it was confirmed suppression of sale/purchase worth ₹ 21.25 crore due to filing of incorrect returns; submission of incorrect accounts and verification conducted, though was on records, yet the AAs framed assessments in these cases without considering the same. This resulted in non-levy of tax of ₹ 0.93 crore, besides penalty of ₹ 2.79 crore is also leviable.

On this being pointed out, the AA Faridabad (West) had created demand of ₹ 5.13 lakh in one case. The department also accepted the audit observations during exit conference (October 2013).

2.4.3 Deduction/rate concession against fake forms

In 11 DETC (ST) Offices¹⁷ 19 dealers had claimed deductions/rate concessions on consignment out of State/sale under Sections 6A and 8 of CST Act, 1956 against “F/C” forms respectively in 20 cases. Further scrutiny of these forms showed that six dealers claimed deduction against “F” forms worth ₹ 5.60 crore and 13 dealers (14 cases) claimed rate concession against “C” forms worth ₹ 13.18 crore. On verification by audit on TINXSYS and through correspondence with other States, these forms were found fake. The AAs, however, admitted these forms without verification, resulting in tax evasion of ₹ 1.51 crore, besides penalty of ₹ 4.54 crore was also leviable.

During exit conference, the Department accepted the audit observations. The ETC stated that matter would be taken up with the Commissioners of other States to take action against the defaulting purchasing dealers.

2.4.4 Misclassification of sales

As per provisions of Section 4 (2) of CST Act, 1956 a sale or purchase of goods shall be deemed to take place inside a state, if the goods are within the State:

- (a) In the case of specific or ascertained goods, at the time the contract of sale is made; and
- (b) In the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the seller or by the buyer, whether assent of the other party is prior or subsequent to such appropriation.

In five DETC (ST) Offices¹⁸, 15 dealers (15 cases) had effected sale worth ₹ 84.26 crore during 2004-05 to 2008-09 to the state dealers and claimed benefit of concessional rate of tax against “C” forms obtained from these dealers treating the sale as interstate sale on the plea that the goods were consigned by the purchasing State dealers to the outstate dealers which was not correct in view of the provisions of the Act *ibid* because the goods were within the State at the time of contract of sale between the State dealers and as such tax was leviable under the local Act. While framing assessments in these cases, the AAs had also admitted the claims of the dealers. This resulted in

¹⁶ Ambala; Faridabad (W); Gurgaon (E); Kaithal; Panipat and Sirsa.

¹⁷ Ambala, Faridabad (E), Gurgaon (E), Gurgaon (W), Hisar, Jhajjar, Kaithal, Kurukshetra, Palwal, Panipat and Sonapat.

¹⁸ Faridabad (E), Faridabad (W), Gurgaon (E), Gurgaon (West) and Jhajjar.

underassessment of tax of ₹ 6.77 crore, besides penalty of ₹ 20.31 crore was also leviable.

During exit conference, the Department stated that due tax had been levied in the hands of the State purchasing dealers and to this effect necessary certificates from the concerned DETCs along with facts of the case would be submitted but the Department failed to establish this fact.

2.4.5 Evasion of tax by registered dealers

2.4.5.1 During test check of records of DETC (ST) Gurgaon (East), we noticed in November 2011 that two dealers entered into a collaboration agreement to construct a commercial mall on 50:50 share basis for the prospective buyers. As per the agreement, the land belonged to first party whereas the second party was to construct/develop the commercial mall at its cost. Each party was liable to discharge its fiscal/tax liability in respect of its share. Total material amounting to ₹ 76.00 crore was used for construction of the said mall during the years 2006-07 to 2009-10 and second party paid tax of ₹ 1.52 crore at four *per cent* on its share of ₹ 38.00 crore as lump sum contractor while first party neither reflected the same in its returns/accounts nor paid tax on it. This resulted in underassessment of tax of ₹ 3.94 crore, besides penalty of ₹ 11.83 crore was also leviable.

During exit conference, the Department accepted the audit observation and stated that assessment in the case of defaulting dealer had been framed and levied tax.

2.4.5.2 During verification of VAT payment by audit in DETC (ST) Panchkula, it was noticed that a dealer had sold holographic weapon sight for AK-47 rifle worth ₹ 3.88 crore including VAT of ₹ 43.08 lakh at the rate of 12.5 *per cent* during 2010-11. The dealer was registered since 27 September 1996 and was filling nil return with effect from 2007-08. The annual return (VAT R-2) for the assessment years 2009-10 and 2010-11 were not filed by the dealer. This resulted in evasion of tax of ₹ 0.43 crore, besides penalty of ₹ 1.29 crore was also leviable.

During exit conference, the Department accepted the audit observations and stated that re-assessment of the case was under process.

2.4.6 Non-accountal of purchases/sales

A dealer had purchased paddy worth ₹ 4.05 crore on commission basis and as per the trading account, his sale of paddy was at ₹ 1.36 crore. Thus, total assessable turnover worked out to ₹ 5.82 crore (Self account and commission account after adding profit element) but the assessment was framed with GTO of ₹ 83.47 lakh. In this way, sale of ₹ 4.99 crore had escaped assessment involving tax effect of ₹ 19.96 lakh, besides penalty of ₹ 59.86 lakh was also leviable.

During exit conference, the Department admitted the audit observations and stated that necessary directions for re-assessments and levy of tax had been issued to the DETC.

These observations were issued to Department/Government (July 2013); the replies given at the time of exit conference (October 2013) were incorporated in the respective paras.

2.5 Non/Short levy of interest

Section 14 (6) of the HVAT Act, inter alia lays down that if any dealer fails to make payment of tax, he shall be liable to pay, in addition to the tax payable by him, simple interest at one and half *per cent* (one *per cent* with effect from 11 October 2007) per month if the payment is made within ninety days, and at three *per cent* per month (two *per cent* with effect from 11 October 2007) if the default continues beyond ninety days for the whole period, from the last date specified for the payment of tax to the date he makes the payment. The ETC, Haryana issued instructions in September 1993 that it is the duty of every AA to finalise penal proceedings along with the assessment and if, for any reason, the penal action is kept pending that should be completed within six months of the assessment.

In two DETC (ST) offices in three cases, while finalising the assessment for the year 2008-09 in March 2012, the AA levied tax of ₹ 7.77 crore but did not levy interest in two cases and levied short interest in one case. This resulted in non/short levy of interest of ₹ 5.85 crore as per details given in **Table 2.11**.

Table 2.11

Sr. No.	Name of DETC	Assessment year and date of assessment	Tax due on which interest was not levied	Amount of interest			Remarks
				Leviable	Levied	Non/short levy	
				(₹ in lakh)			
1.	DETC (S) Gurgaon (West)	2008-09 (March 2012)	4.17	3.42	Nil	3.42	AA levied interest amounting to ₹ 3.42 lakh in March 2013.
2.	DETC (S) Gurgaon (West)	2008-09 (March 2012)	15.15	12.73	2.14	10.59	AA levied interest amounting to ₹ 11.33 lakh in April 2013.
3.	DETC (S) Gurgaon (East)	2008-09 (March 2012)	757.84	570.69	Nil	570.69	The AA had rectified the order and levied interest of ₹ 6.13 crore for the non-payment of tax as per returns in April 2013.
	Total		777.16	586.84	2.14	584.70	

During exit conference (October 2013), the Department accepted the audit observations.

CHAPTER III: STATE EXCISE

3.1.1 Tax administration

The excise revenue is mainly derived from the auction fee for the grant of license of various vends and excise duties levied on spirit and beer removed from distilleries and breweries and on that imported/exported to and from any other State. The Principal Secretary to Government of Haryana, Excise and Taxation Department is the administrative head at Government level and Excise and Taxation Commissioner (ETC) is head of the Department. He is assisted by the Collector (Excise) at headquarter and Deputy Excise and Taxation Commissioners (Excise) {DETCs (Excise)}, Assistant Excise and Taxation Officers (AETOs), Inspectors and other allied staff for proper administration of State Excise Acts/Rules in the field.

3.1.2 Results of Audit

Test check of the records of the offices of DETCs (Excise) in 2012-13 noticed non/short recovery of excise duty, license fee and penalty etc. amounting to ₹ 16.53 crore in 369 cases which fall under the categories detailed in Table 3.1.

Table 3.1

(₹ in crore)			
Sr. No.	Category	Number of cases	Amount
Excise and Taxation Department (State Excise)			
1.	Non/short recovery of license fee from licensees	01	8.56
2.	Non/short deposit of license fee and loss of interest	109	2.12
3.	Non-recovery of penalty on illicit liquor	53	0.50
4.	Miscellaneous irregularities	206	5.35
	Total	369	16.53

During 2012-13, the Department accepted underassessment and other deficiencies amounting to ₹ 47.11 lakh involved in 79 cases, out of which ₹ 40.23 lakh involved in 71 cases were pointed out during the year and the rest in earlier years. The Department recovered ₹ 6.88 lakh in eight cases pointed out in earlier years.

A few illustrative cases involving ₹ 12.15 crore are mentioned in the succeeding paragraphs.

Audit findings

3.2 Non/short recovery of license fee from licensees

3.2.1 Non/short recovery of license fee

Under the Haryana Liquor License Rules, 1970 (HLL Rules) read with the State excise policy for the years 2009-10 to 2012-13 provide for payment of monthly installments of license fee by the 15th/20th of each month by the licensee/allottee failing which he is liable to pay interest at the rate of one and half *per cent* per month for the period from the first day of the month to the date of payment of the instalment or any part thereof. If the licensee fails to deposit the monthly instalment in full along with interest by the end of the month, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district.

3.2.1.1 In seven offices of DETC (Excise) for the years 2009-10 to 2012-13, we noticed that 119 licensees failed to pay monthly instalment of license fee for the periods between April 2009 and March 2013 in full by the prescribed dates. The licensees had paid only ₹ 77.99 crore out of ₹ 82.94 crore payable. The DETC (Excise), however, did not initiate any action to seal the vends even after the lapse of one to three years, resulting in non recovery of license fee of ₹ 4.95 crore.

3.2.1.2 In the offices of DETC (Excise), Rohtak and Rewari, we noticed that 12 retail outlets licensees did not deposit the license fee of ₹ 6.30 crore in full by due date for the years 2009-10 and 2010-11. They paid only ₹ 3.33 crore (including additional security of ₹ 15 lakh) leaving the balance amount of ₹ 3.12 crore. The Department cancelled their retail liquor outlets and forfeited the additional security of ₹ 15 lakh. These retail outlets could not be re-allotted and Department did not initiate any concrete action to recover the outstanding license fee resulting in non-realisation of Government revenue of ₹ 3.12 crore.

The Government accepted the audit observation (October 2013). DETC (Excise), Palwal stated that an amount of license fee of ₹ 1.62 lakh had been recovered and recovery proceedings had been initiated under the Land Revenue Act to recover the outstanding amount of ₹ 8.05 crore.

3.2.2 Surety bonds not collected before the allotment of vends

As per State Excise Policy in force, every successful allottee was required to submit solvency certificate duly certified by the Tehsildar concerned and two sets of M-75 (Surety bond) on non-judicial stamp paper duly signed by the two solvent persons having solvency of equal amount to the license fee of the vend before the commencement of the business. Failure to do so shall be sufficient ground for the cancellation of license. The arrears of license fee can also be recovered under the Punjab Land Revenue Act, 1887.

In the office of DETCs (Excise), Gurgaon, Rohtak and Rewari, we noticed that 26 licensees did not submit the M-75 (Surety bond). We also noticed that DETC (Excise) Rewari, issued only notices to the concerned defaulting licensees. DETCs (Excise) Gurgaon and Rohtak had not taken surety bonds (M-75) from the defaulting licensees and recovery certificates were not issued under the PLR Act. No action was initiated by DETCs (Excise), even after the lapse of one to three years as required under the Excise policy.

The Government accepted the audit observation during the exit conference (October 2013) and stated that direction had been issued to complete all the surety bonds.

3.2.3 Non/short deposit of security and additional security

Under the HLL Rules read with the State Excise Policy for the year 2011-12, every successful allottee of retail licensed liquor outlet is required to deposit security equal to five *per cent* of the license fee on the day of draw of lots, five *per cent* within seven days of the allotment/draw of lot on or before 31 March of the respective year, whichever is earlier and 10 *per cent* by 7th April of the respective year. The balance 80 *per cent* shall be payable in equal nine monthly instalments by 20th of the month starting from the month of operation of vend and every subsequent month till entire license fee is realised. If an allottee/licensee fails to make the full payment of security in the prescribed time, his license shall be deemed to have been cancelled automatically and security deposited, if any, forfeited. Further, payment of additional security of ₹ one lakh and ₹ two lakh is to be made by retail licensed liquor outlet having license fee upto ₹ 75 lakh and above ₹ 75 lakh respectively. The amount of additional security shall be refunded after the close of the year when there would be nothing due against the licensee. In case, the allottee fails to make payment of security deposit equal to 20 *per cent* of annual license fee and defaults in payment of nine equated instalments of license fee along with interest, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district. In such events, the DETC (Excise) may re-allot it at the risk and cost of the original allottee by seeking prior permission of the Financial Commissioner.

(a) In the office of DETC (Excise) Gurgaon for the year 2011-12, we noticed that 17 retail outlet licensees for ₹ 16.64 crore for the year 2011-12 did not deposit the security amount in full by the stipulated date (07 April 2011). Four allottees did not deposit security amounting to ₹ 20 lakh. Further, 17 licensees did not pay additional security of ₹ 29 lakh. The DETC (Excise) issued notices to the concerned defaulting licensees and further no action was taken as required under Act and Rules. The DETC (Excise), however, did not initiate any action to recover the additional security from the licensees. This resulted in non/short deposit of security and additional security amounting to ₹ 49 lakh (security 20 lakh and additional security 29 lakh).

The Government accepted the audit observations during the exit conference (October 2013) and stated that recovery proceedings had been initiated under the Land Revenue Act to recover the outstanding amount of ₹ 49 lakh.

(b) Non-realisation of differential license fee on re-auction

In five offices¹ of DETC (Excise), we noticed that 11 retail outlet licensees did not deposit the license fee of ₹ 4.06 crore out of ₹ 5.38 crore. The Department cancelled their retail liquor outlets and forfeited the entire amount of security. These retail outlets were re-auctioned/re-allotted between September 2010 and January 2012 for the remaining period for ₹ 2.61 crore at the risk and cost of original licensees. The Department did not initiate any action to recover the differential amount of license fee of ₹ 1.45 crore (₹ 4.06 crore - ₹ 2.61 crore) from the original allottees resulting in non-realisation of Government revenue of ₹ 1.45 crore.

(c) Non/short recovery of interest

HLL Rules provides for payment of monthly instalments of license fee by the 20th of each month failing which the licensee is liable to pay interest at the rate of one and half *per cent* per month for the period from the first day of the month to the date of payment of the instalment or any part thereof. If the licensee fails to deposit the monthly instalment in full along with interest by the end of the month, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district.

In six offices² of DETC (Excise) for the years 2010-11 and 2011-12, we noticed that 130 licensees had paid the monthly instalments of license fee amounting to ₹ 55.04 lakh for the period between April 2010 and March 2012 after the prescribed due dates. The delay ranged between 20 days to one year. The DETCs (Excise), however, did not initiate any action to cease/seal the vends and to levy interest for delayed payments of license fee. This resulted in non-levy of interest of ₹ 96.89 lakh.

We pointed out the matter to the Excise and Taxation Department between March 2012 and May 2013 and reported to the Government in July 2013.

The Government accepted the audit observations during the exit conference (October 2013). The DETCs (Excise), Jhajjar and Kurukshetra stated that an amount of ₹ 2.64 lakh had been recovered in 10 cases. Recovery proceedings had been initiated under the Land Revenue Act to recover the outstanding amount of ₹ 2.39 crore.

¹ Faridabad, Kurukshetra, Palwal, Panipat and Sonapat.

² Faridabad, Gurgaon, Jhajjar, Karnal, Kurukshetra and Panipat.

3.3 Non levy/realisation of penalty for short lifting of quarterly quota of liquor

HLL Rules provides that a licensee is liable to lift the entire basic quota of CL and IMFL allotted to his vend as per prescribed quarterly schedule failing which penalty at the rate of ₹ 20 and ₹ 65 per proof litre (PL) for CL and IMFL (on quarterly basis) respectively for the deficient quantity will be imposed.

In Bhiwani, Gurgaon and Palwal offices of DETC (Excise) for the years 2010-11 and 2011-12, we noticed that all the 31 licensees had lifted 10.17 lakh PLs (CL: 3.47 lakh PLs; IMFL: 6.70 lakh PLs) out of prescribed combined liquor quota of 11.98 lakh PLs leaving a short lifting of 1.81 lakh PLs. DETCs (Excise) had not initiated any action to levy penalty amounting to ₹ 92.59 lakh.

We pointed out the matter to the Government which accepted the audit observations during the exit conference (October 2013) and stated that an amount of ₹ 36.65 lakh had been recovered and recovery proceedings had been initiated under the Land Revenue Act to recover the outstanding amount of ₹ 55.94 lakh.

3.4 Non levy/recovery of penalty for illegal possession and trade of liquor

Under Section 61 of the Punjab Excise Act, 1914, as applicable to the State of Haryana, penalty not less than ₹ 50 and not more than ₹ 500 per bottle of 750 milliliters is leviable on the offender for possession of illicit liquor³. Further, Haryana Imposition and Recovery of Penalty Rules, 2003, provide that if penalty is not paid within the stipulated period, the Collector or DETC (Excise) shall pass orders for confiscation of means of transport seized along with liquor and the means of transport shall be put to auction within 30 days from the date of order of confiscation. The auction amount, after deducting the expenditure incurred on it, shall be adjusted towards payment of penalty and the excess amount, if any, shall be refunded to the owner. The unrecovered amount of penalty, if any, shall be recoverable as arrears of land revenue.

In the offices of DETC (Excise) Kaithal, Kurukshetra and Jind, we noticed that the Department had detained 29,402 bottles of illicit country liquor in 171 cases and confiscated four vehicles {DETC (Excise) Kurukshetra} between January 2009 and September 2011. The Department, after giving reasonable opportunity, decided 163 cases and imposed penalty of ₹ 14.69 lakh during 2009-10 and 2011-12 and in eight cases penalty of ₹ 9.36 lakh could not be levied. Neither the defaulters paid the penalty nor the Department initiated any action to recover the amount by auctioning the confiscated vehicles even after a lapse of 12 to 24 months⁴. Non-observance of Rules 12 and 13 of the Haryana Imposition and Recovery Rules resulted in non-recovery of penalty of ₹ 24.06 lakh.

³ Illicit liquor means liquor prepared clandestinely/unlawfully, without any quality control checks, and not suitable for human consumption due to higher alcoholic concentration than permissible.

⁴ Delay calculated from the date of imposition of penalty to March 2012.

We pointed out the matter to the Government in July 2013 which accepted the audit observations during the exit conference (October 2013) and stated that an amount of ₹ 3.22 lakh had been recovered and efforts would be made to recover the balance amount of ₹ 20.84 lakh.

CHAPTER IV: STAMP DUTY

4.1.1 Tax administration

Receipts from the stamp duty (SD) and registration fee (RF) in the State are regulated under the Indian Stamp Act, 1899 (IS Act), Indian Registration Act, 1908 (IR Act), Punjab Stamp Rules, 1934, as adopted by the Government of Haryana with suitable amendments and the Haryana Stamp (Prevention of Undervaluation of Instruments) Rules, 1978. At the Government level, the Additional Chief Secretary, Revenue and Disaster Management Department, Haryana is responsible for the administration of the IS Act and IR Act and the rules framed thereunder relating to the registration of various documents. The overall control and superintendence over levy and collection of SD and RF vests with the Inspector General of Registration (IGR), Haryana. The IGR is assisted by the 21 Deputy Commissioners (DCs), 67 tehsildars and 46 naib tehsildars acting as Registrars, Sub Registrars (SRs) and Joint Sub Registrars (JSRs) respectively.

4.1.2 Results of audit

Test check of the records of various registration offices during the year 2012-13 noticed non/short levy of SD and RF amounting to ₹ 68.26 crore in 793 cases, which broadly fall under the categories detailed in **Table 4.1**.

Table 4.1

(₹ in crore)			
Sr. No.	Category	Number of cases	Amount
Revenue Department			
1.	Levy and collection of stamp duty and registration fee on Development Agreements	01	60.39
2.	Short recovery of stamp duty and registration fee due to non-charging of residential rates on purchase of land	254	1.26
3.	Short realisation of stamp duty due to sale of property at lower consideration than the amount mentioned in the agreement deeds	75	1.64
4.	Non/short recovery of stamp duty due to undervaluation of immovable property	214	2.05
5.	Irregular exemption of stamp duty on mortgage deeds/compensation certificates to land acquired	17	0.07
6.	Short recovery of stamp duty due to misclassification of instruments	17	1.12
7.	Miscellaneous irregularities	215	1.73
Total		793	68.26

During the course of the year 2012-13, the Department accepted underassessment and other deficiencies of ₹ 8.16 crore involved in 707 cases, out of which ₹ 8.14 crore involved in 686 cases were pointed out during the year and the rest in earlier years. The Department recovered ₹ 2.52 lakh in 21 cases pointed out in earlier years.

A few illustrative cases involving ₹ 65.27 crore are mentioned in the succeeding paragraphs.

Audit findings

4.2 Levy and collection of stamp duty and registration fee on Development Agreements

4.2.1 Introduction

A development agreement executed between the land owner and the developers, entrusts the possession of the immovable properties to the developer in lieu of consideration, in the form of some residential/shop-cum flats/cash. The Development Agreements entered into six districts¹ for the years 2007-08 to 2012-13 were test checked between April to July 2013. We selected the units on the basis of quantum of construction activities. Rohtak district was included in the scope of audit on the suggestion made by Department. The findings of the audit are given in the succeeding paragraphs.

4.2.2 Short levy of stamp duty due to misclassification of sale deeds into collaboration agreement

Section 2 (10) of the IS Act, provides that ‘conveyance’ includes conveyance on sale and every instrument by which property, whether movable or immovable, is transferred inter vivos and which is not otherwise specifically provided for by schedule 1-A of the Act. Further, Section 54 of the Transfer of Property Act, 1882 defines “sale” as transfer of ownership in exchange for a price paid or promised or part paid and part promised. The classification of an instrument depends upon the nature of the transaction recorded therein.

We noticed that 228 Collaboration Agreements relating to six districts² were registered between June 2007 and March 2013 in respect of land on which SD and RF of ₹ 1.66 lakh was levied as applicable in the case of agreement, not involving sale of land. Scrutiny of these agreements further noticed that the owners of land authorised the developers to take possession of the land with the right to construct, built-up shop-cum-flats and residential houses in exchange for a share of the developed land and/or receive part payments. The developers were entitled to dispose of their shares of developed land in such a manner as they deemed fit without requiring any consent from the owners. Hence, the development right/collaboration agreements were conveyance deeds and were liable to pay SD on sale of property in respect of the developers’ share of land. As per rates fixed by the Collector, total value of land transferred to the developers worked out to ₹ 1,190.76 crore on which SD

¹ Faridabad, Gurgaon, Karnal, Panchkula, Rewari and Sonapat.

² (i) Gurgaon: 71; Manesar (Gurgaon) :13 ; Sohna(Gurgaon):13 (ii) Panchkula: 09 (iii) Karnal: 07 (iv) Faridabad:51 ; Ballabgarh (Faridabad) :02 (v) Rewari :03, Dharuhera (Rewari): 03 (vi) Sonapat :42 and IR cases :14.

and RF of ₹ 60.41 crore was leviable. However, the registering authorities misclassified these documents as agreement to sell charging SD of ₹ 1.66 lakh instead of ₹ 60.41 crore, resulting in short levy of SD of ₹ 60.39 crore.

4.2.3 Absence of time limit for disposal of cases of undervaluation referred to the Collector under Section 47A of IS Act

Under Section 47-A of the IS Act, if the registering officer has reasons to believe that the value of the property or the consideration has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value of the consideration and the proper duty payable. Thereafter, the Collector, after issue of notice to the concerned person, is required to conduct summary enquiry as he may deem proper and assess the amount of deficient duty recoverable from the person concerned after determining the value of property. The cases so referred to the Collector are entered in register in Form 3 maintained in the office of the Collector. The adjudication orders are also entered in this register. After their finalisation, these adjudication cases are returned to the concerned registering officer who will watch the recovery of deficient duty.

During test check of the Reference Registers of Collectors Karnal, Ballabgarh and Sonapat, we noticed that in 14 cases involving SD of ₹ 1.10 crore referred by the SRs to the Collectors between March 2012 and May 2013 for the years 2010-11 and 2011-12 by three SRs, were pending adjudication. Delay in deciding the cases ranged between 2 to 17 months. We observed that no time limit had been prescribed for disposal of such cases under adjudication.

On these being pointed out (August 2013), the Government accepted the audit observations during the exit conference (November 2013) and stated that notification had been issued on 1 October 2013 regarding the levy of SD as per rate prescribed for sale/conveyance deeds on such Development agreements and the directions have been issued to finalise the cases referred under Section 47A of IS Act within two months.

4.3 Short levy of stamp duty due to application of incorrect rates of immovable property

As per Government instructions issued in November 2000, agricultural land sold within municipal limits, with an area less than 1,000 square yards or in case where purchasers are more than one and the share of each purchaser is less than 1,000 square yards, be valued at the rate fixed for the residential property of that locality for the purpose of levying SD.

We noticed from the records of 22 offices of JSRs/SRs that 134 sale deeds of plots falling within the parameter of above notification were registered between April 2010 and March 2012. The deeds were liable to be assessed for ₹ 41.78 crore based on the rates fixed for residential areas and SD of ₹ 2.59 crore was chargeable. However, the registering authorities assessed the

deeds for ₹ 10.71 crore based on the rates fixed for agricultural land and levied SD of ₹ 64.29 lakh. This resulted in short levy of SD of ₹ 1.95 crore.

The matter was referred to the Government in July 2013 which accepted the audit observations during the exit conference (November 2013) and stated that an amount of SD of ₹ 75,000 had been recovered and instructions had been issued to the registering authorities for strict compliance to recover the outstanding amount of SD of ₹ 1.94 crore.

4.4 Short levy of stamp duty due to undervaluation of immovable property

As per Government order issued in May 2010 in view of Hon'ble Supreme Court judgment in March 2010, stamp duty shall be levied on the market value of land to be sold and not on the basis of value agreed between the buyer and the seller. If the Registering Authority has reason to believe that the value of the property or the consideration, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or consideration, as the case may be, and the proper duty payable thereon.

4.4.1 During test check of records of 21 offices³ of SRs/ JSRs, we noticed that in 47 cases, the registering authorities assessed the value of land at ₹ 3.25 crore on the basis of rates agreed to between the parties earlier and levied SD of ₹ 13.67 lakh, but the actual value of the immovable property was ₹ 21.10 crore as per Collector rate applicable at the time of registration of documents and SD of ₹ 1.16 crore was leviable resulting in short levy of SD of ₹ 1.02 crore.

4.4.2 In four offices⁴ of SR, we noticed that five vendees purchased land between May 2010 and March 2011 for a consideration of ₹ 12.55 crore. In three cases, the industrial/residential land purchased for ₹ 1.37 crore was treated as agricultural land and was levied SD of ₹ 8.18 lakh as against SD of ₹ 20.43 lakh leviable as per Collector's rate on ₹ 4.55 crore, which resulted in short levy of SD of ₹ 12.25 lakh. In other two cases, the agricultural land was purchased for ₹ 11.18 crore and the rate or value of land determinable on the basis of agreed between the Government and the autonomous bodies i.e. electricity board at a price of ₹ 30/35 lakh per acre along with annuity value of ₹ 15,000 per acre plus annual increase of ₹ 500 per year for a period of 33 years. The registering authority levied SD of ₹ 55.89 lakh on the basis of agricultural land without considering the annuity value and annual increase though the SD was to be levied of ₹ 65.84 lakh which resulted in short levy of SD of ₹ 9.95 lakh. However, the Registering Authority did not refer the same to the Collector for determination of the value as consideration and proper duty payable. This resulted in short levy of SD of ₹ 22.20 lakh.

³ Behal, Charkidadri, Loharu, Bhiwani, Sohna, Sonipat, Gohana, Ganuuar, Kosli, Dharuhera, Panipat, Pataudi, Firojpur (Jhirka), Nuh, Ambala Cantt, Naraingarh, Faridabad, Ballabgarh, Mulana, Jagadhri and Mustafabad.

⁴ Palwal, Pataudi, Rewari and Sonipat.

The Government accepted the audit observation during the exit conference (November 2013) and stated that an amount of SD of ₹ 79,000 had been recovered and assured that appropriate action would be taken to recover the outstanding amount of SD of ₹ 1.23 crore.

4.5 Evasion of stamp duty due to misclassification of documents

The classification of an instrument depends upon the nature of the transactions recorded therein.

In six offices⁵ of SRs, we noticed that 21 instruments conveying possession and transfer of property valued at ₹ 12.47 crore to the vendees from whom the vendors received full amount of consideration were misclassified as agreements to sell charging SD of ₹ 1,560 which was incorrect as against duty leviable at ₹ 68.64 lakh for conveyance deeds resulting in short levy of ₹ 68.63 lakh.

We reported the matter to the Government in May 2013 which accepted the audit observations during the exit conference (November 2013) and stated that an amount of SD of ₹ 2.10 lakh had been recovered and instructions would be issued to the registering authorities to recover the outstanding amount of SD of ₹ 66.53 lakh.

4.6 Evasion of stamp duty due to undervaluation of immovable property

Section 27 of the IS Act provides that consideration and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of duty with which it is chargeable, should be fully or truly set forth therein. Further, Section 64 of the IS Act provides that any person who, with intent to defraud the Government, executes an instrument in which all the facts and circumstances are not fully and truly set forth, is punishable with a fine which may extend to ₹ 5,000 per instrument.

In 19 registering offices⁶ we noticed that 60 conveyance deeds were registered for sale of immovable properties worth ₹ 10.06 crore. Cross verification of these deeds with the agreements executed between the concerned parties noticed that the total sale value of agreements worked out to ₹ 25.10 crore resulting in undervaluation of immovable properties. This resulted in evasion of SD of ₹ 58.13 lakh. In addition, penalty not exceeding ₹ 3.00 lakh for incorrect information in the documents was also leviable as per Act.

⁵ SRs: Bahadurgarh, Gurgaon, Jagadhri, Jhajjar, Kaithal and Sohna.

⁶ JSRs: Balsamand, Behal, Rajaund and Uklana.

SRs: Beri, Bahadurgarh, Badhda, Ballabhgarh, Dharuhera, Faridabad, Guhla, Hisar, Hansi, Jhajjar, Loharu, Narnaul, Narnaund, Nuh and Punhana.

We reported the matter to the Government in June 2013 which accepted the audit observations during the exit conference (November 2013) and stated that an amount of ₹ 2.18 lakh including penalty of ₹ 20,000 had been recovered and efforts would be made to recover the outstanding amount of SD of ₹ 58.95 lakh including penalty of ₹ 2.80 lakh.

4.7 Undue benefit through reduction in Stamp Duty

As per notification issued on November 2010, under the IS Act, the Government reduced the SD by one *per cent* in respect of instruments of transfer of self acquired immovable property executed in favour of son or daughter or father or mother or spouse of the executants.

Examination of gift deeds in eight offices⁷ showed that 100 instruments of gift deeds in respect of which donees were other than those allowed in the above notification and allowance of one *per cent* SD to those 100 instruments resulted in loss of revenue to State exchequer to the extent of ₹ 29.44 lakh.

We pointed out the matter to the Government in July 2013 which accepted the audit observations during the exit conference (November 2013) and stated that an amount of ₹ 6.43 lakh had been recovered and efforts would be made to recover the outstanding amount of SD of ₹ 23.01 lakh.

4.8 Irregular exemption of stamp duty

As per notification issued on August 1995, under the IS Act, the Government remits the SD in respect of the sale deeds covering purchase of agricultural land by farmers whose land was acquired by Haryana Government for public purposes within one year of receipt of compensation. The remittance will be limited to the compensation amount only and the additional amount involved for the purchase of agricultural land, will be liable to SD as per rules.

In four offices of JSR/SR, we noticed that farmers, whose land was acquired by the Government for public purposes, purchased residential and agricultural land valued at ₹ 1.79 crore in 15 cases. In 13 cases, the farmers purchased residential land valued at ₹ 1.24 crore attracting SD at the rate of five to seven *per cent* valuing ₹ 7.14 lakh. Non levy of SD resulted in loss of ₹ 7.14 lakh. In another two cases, SD of ₹ 2.76 lakh was leviable at the rate of five *per cent* on ₹ 55.22 lakh as the land was purchased after one year from the date of receipt of compensation amount. Thus, irregular exemption of SD resulted in non-levy of SD to the extent of ₹ 9.90 lakh.

⁷ Balsamand, Ballabhgarh, Faridabad, Hisar, Kalka, Panchkula, Panipat and Raipurrani.

We reported the matter to the Government in June 2013 which accepted the audit observations during the exit conference (November 2013) and stated that an amount of SD of ₹ 1.32 lakh had been recovered and efforts would be made to recover the outstanding amount of SD of ₹ 8.58 lakh.

CHAPTER V: TAXES ON VEHICLES, GOODS AND PASSENGERS

5.1.1 Tax administration

5.1.1.1 Passengers and goods tax

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

5.1.1.2 Taxes on vehicles

Registration of motor vehicles, issue of permits, issue of driving/conductor licences, levy and collection of token tax, permit fee, licence fee etc. are governed under the provisions of the Motor Vehicles Act, 1988, (MV Act) Central Vehicles Rules, 1989, the Haryana Motor Vehicles Rules, 1993, the Punjab Motor Vehicles Taxation Act, 1924 (PMVT Act), as applicable to the State of Haryana and the Punjab Motor Vehicles Taxation Rules, 1925. The Additional Chief Secretary to Government of Haryana, Transport Department is the administrative head at the Government level and is responsible for the administration of the MV Act/Rules in the State and assisted by the Transport Commissioner who exercises general superintendence over the functioning of the Department. The powers of Registering and Licencing Authority (RLA) are being exercised by 57 Sub-Divisional Offices (Civil) in respect of non-transport vehicles, whereas 21 Secretary, Regional Transport Authorities (RTAs) are exercising the powers of RLA in respect of transport Vehicles.

5.1.2 Results of audit

Test check of the records in the offices of Transport, Excise and Taxation Departments relating to revenue received from taxes on vehicles, taxes on goods and passengers, and other tax receipts during the year 2012-13 noticed non/short recovery of tax/duty, fees and penalty etc. amounting to ₹ 9.53 crore in 4,816 cases which broadly fall under the categories detailed in **Table 5.1**.

Table 5.1

(₹ in crore)

Sr. No.	Category	Number of cases	Amount
A: Transport Department (Taxes on vehicles)			
1.	Performance audit on Receipts from taxes on Motor Vehicles	01	1.33
2.	Non-recovery of bid money	27	0.77
3.	Non/short recovery of token/road tax in respect of stage carriage buses/combine harvesters etc.	224	0.29
4.	Short recovery of permit/counter signature fees from owners of heavy/light transport vehicles	299	0.17
5.	Non/short recovery of token tax from private vehicles	306	0.13
6.	Non/short realisation of registration fee and token tax on vehicles transferred from other States	195	0.08
7.	Miscellaneous irregularities	1,905	2.14
Total		2,957	4.91
B: Excise and Taxation Department (Taxes on goods and passengers)			
1.	Non/short realisation of Passengers tax from Co-operative Transport Societies	01	2.56
2.	Non-recovery of passengers tax from bus owners of co-operative societies/educational institutions	374	1.28
3.	Non-recovery of goods tax	1,240	0.62
4.	Miscellaneous irregularities	244	0.16
Total		1,859	4.62
Grand Total		4,816	9.53

In 2012-13, the Department accepted underassessment and other deficiencies of ₹ 1.09 crore involved in 1,223 cases, out of which ₹ 108.64 lakh involved in 1,219 cases were pointed out in 2012-13 and rest in the earlier years. The Department recovered ₹ 10.54 lakh in 100 cases in 2012-13, out of which ₹ 9.96 lakh involved in 96 cases relate to the year 2012-13 and rest in the earlier years. This chapter contains Performance Audit on “Receipts from Taxes on Motor Vehicles” with financial impact of ₹ 1.33 crore and illustrative cases involving ₹ 2.56 crore as mentioned in the succeeding paragraph.

5.2 Receipts from Taxes on Motor Vehicles

5.2.1 Highlights

- Applications for registration of vehicles were filed after a delay of 21 days, due penalty in 650 one time tax paid cases was not imposed by the Department resulted in loss of revenue.

(Paragraph 5.2.9)

- The Department failed to recover token tax amounting to ₹ 35.24 lakh from private/goods vehicles in respect of 569 vehicles.

(Paragraphs 5.2.11.1 and 5.2.11.2)

- Improper maintenance of cash book and inadequacy in internal control system led to embezzlement of ₹ 5.32 lakh.

(Paragraph 5.2.12.1)

- The Department failed to recover additional fee of ₹ 24.20 lakh in respect of allotment of out of turn registration numbers in 242 cases.

(Paragraph 5.2.16)

- Non-registration of vehicles designed to carry more than six persons as transport vehicles resulted in short realisation of token tax of ₹ 10.68 lakh in 35 cases besides permit fee.

(Paragraph 5.2.18)

- The Department failed to recover registration fee and token tax amounting to ₹ 9.07 lakh due to non-assignment of new registration mark in respect of 425 vehicles transferred from other States.

(Paragraph 5.2.19)

5.2.2 Introduction

Registration of motor vehicles, issue of permits, issue of driving licenses, levy and collection of token tax, permit fee, license fee etc. are governed under the provisions of the Central Motor Vehicles Act, 1988 (MV Act), Central Motor Vehicles Rules, 1989, the Haryana Motor Vehicles Rules, 1993, PMVT Act, as applicable to the State of Haryana and the PMVT Rules, 1925. The MV Act vests upon the State Governments the responsibility of providing an efficient public transportation system, registration of vehicles, issue of driving licenses, road permits, fitness certificates of vehicles and collections of road taxes. The major receipts from motor vehicles comprise tax on motor vehicles, fees for registration, issue of driving license, road permit etc. Road permits are issued in respect of goods carriage, stage carriage, contract carriage and private service vehicles.

Transport Department, Haryana has two wings, i.e. Operational Wing and Regulatory Wing. The operational wing looks after the operation of Haryana Roadways and is responsible for providing essential public transport services within the State as well as to important destinations in the neighbouring States. The Regulatory wing looks after implementation of the Motor Vehicles Act/Rules and is responsible for regulation of Transport and other Road Safety issues etc.

5.2.3 Organisational set up

At the Government level, Principal Secretary, Transport Department is responsible for formulation of policies, programmes and their implementation by the Department. At the Department level, the Transport Commissioner (TC) deals with all policy matters and administration of Acts and Rules and is assisted by two additional /Joint Transport Commissioners who supervise the overall functions at the Headquarters' and field offices. The Secretaries, Regional Transport Authorities (RTAs) are primarily responsible for enforcement of the provisions of MV Act/Rules in respect of transport vehicles. There are 21 district offices, each of which is headed by Secretary, RTA who registers transport vehicles and issue regular driving licenses in respect of such vehicles.

58 Sub Divisional Officers {(SDOs) (Civil)} in the State have been notified as Registering and Licensing Authorities to register vehicles for private use (non-transport) and issuance of learner/regular driving licenses in respect of such vehicles and also the conductor licenses. RTA is responsible for issue of permits to Commercial Vehicles, issue of driving license, registration of vehicles, levy and collection of taxes. The Enforcement Wing is primarily responsible for ensuring that vehicle for which tax has not been paid is not plying on the road.

5.2.4 Audit objectives

We conducted the performance audit with a view to ascertain whether:-

- Registration of Motor Vehicles and issue of driving licenses was done in accordance with the provisions of the Act and rules made thereunder;
- an adequate and effective system exists for ensuring timely collection of taxes and remittance of the same into the treasuries/banks; and
- an effective internal control and monitoring mechanism was in existence and was working efficiently to ensure timely assessment and realisation of taxes and fees.

5.2.5 Scope and methodology of audit

The records relating to registration of motor vehicles, collection of fee on various accounts and issue of driving licenses in the office of the Transport Commissioner and seven out of 21 districts of Transport Department in the State for the years 2007-08 to 2011-12 were test checked between August 2012 and March 2013. We selected four districts¹ offices on random sample selection basis by applying formula of probability proportional to size

¹ Ambala, Hisar, Panipat and Sirsa.

(without replacement) method, Faridabad and Gurgaon on the basis of risk analysis and Mohindergarh district on the suggestions made by the Department during entry conference in August 2012. We have also included points of similar nature noticed during audit of the Department for the period 2007-08 to 2011-12.

5.2.6 Audit criteria

The Audit Criteria were derived from the following sources:-

- Motor Vehicles Act, 1988, Motor Vehicles Rules, 1989;
- Punjab Motor Vehicles Taxation Act, 1924 (PMVT Act);
- Punjab Motor Vehicles Rules, 1940 as applicable to the State of Haryana;
- Haryana Motor Vehicles Act, 1991;
- Haryana Motor Vehicles Rules, 1993;
- Departmental notifications and circulars issued regarding levy and Collection of MV tax; and
- Administrative instructions issued by the Department.

5.2.7 Acknowledgement

We acknowledge the co-operation extended by the Department in providing necessary information and records for facilitating audit. We conducted an entry conference (August 2012) which was attended by the Additional Chief Secretary to Haryana Government and other officers wherein the audit objectives, methodology and selection of districts were explained. The suggestions of the Department were also kept in view at the time of selection of districts and conducting audit. An exit conference was held (November 2013) with the Principal Secretary to Haryana Government (Transport Department) and other officers where the findings of the performance audit were discussed. The replies furnished and views of the Department/Government during exit conference and at other times have been appropriately incorporated in the performance audit.

5.2.8 Trend of receipts

The budget estimates (BEs) and actual receipts during the years 2007-08 to 2011-12 in the State vis-à-vis the total tax/non-tax receipts are exhibited in the **Table 5.2**.

Table 5.2

(₹ in crore)						
Year	Budget estimates	Actual receipts	Variation excess(+)/ shortfall (-)	Percentage of variation	Total tax/non-tax receipts of the State	Percentage of actual receipts vis-a-vis total tax/non-tax receipts
2007-08	275.00	233.79	(-) 41.21	(-) 15	16,714.90	1
2008-09	275.00	239.30	(-) 35.70	(-) 13	14,893.73	2
2009-10	375.00	277.07	(-) 97.93	(-) 26	15,960.90	2
2010-11	350.00	457.36	(+) 107.36	(+) 31	20,211.31	2
2011-12	515.00	740.15	(+) 225.16	(+) 44	25,121.11	3

It was seen from the above table that there was decreasing trend of receipts with reference to BEs between 13 and 26 *per cent* during the years 2007-08 to 2009-10 and thereafter increasing trend between 31 and 44 *per cent* in 2010-11 and 2011-12. The Department attributed the reasons (June 2013) for decreasing trend to recession in the market and non-posting of enforcement staff and fixing of higher targets in comparison to previous year. The reply was not based on convincing evidence as the number of registration of vehicles increased from 4,23,238 in 2007-08 to 4,68,265 in 2009-10. This indicated that BEs were not realistic.

Audit findings

5.2.9 Delay in implementation of revised penalty rates

Section 41 (11) of MV Act inter-alia lays down that in case owner of a vehicle fails to make an application to the Registering Authority (RA) for registration of his vehicle within one month from the date of purchase of vehicle, penalty not exceeding ₹ 100 would be levied under Section 177 of the Act. Further, the Department notified (12 July 2011) that in case the vehicle is not registered within 21 days from the purchase of vehicle, penalty at the rate of 0.5 *per cent* of the lump sum one time tax payable would be charged on per day basis.

In five offices² of RTAs and sixteen offices³ of RAs, 650 one time tax paid cases, applications for registration of vehicles were filed after 21 days. Penalty due in these cases were not imposed by RA/RTAs which resulted into loss of revenue.

The Government admitted the audit observations and stated that High Court in its decision dated 12 February 2013 clarified that imposing penalty is on the discretion of Licensing Officer. Hence, the Licensing Officer can also impose less penalty. The reply is not correct as in these cases the Licensing Officers had not imposed any penalty.

5.2.10 Non/short levy of penalty on over loading of vehicles

Section 194 of the MV Act provides that a person who drives a motor vehicle carrying goods exceeds the weight/gross vehicle weight specified in the certificate/registration of the vehicles under Section 113 of the MV Act, he is liable to pay a minimum fine of ₹ 2,000 and an additional amount of ₹ 1,000 per tonne of excess load, together with the liability to pay charges for off loading of the excess load.

In five offices⁴ of Secretary, RTAs and office of STC, Haryana, 187 vehicles were found carrying goods in excess of the permissible weight which resulted into loss of revenue due to non-levy of penalty of ₹ 29.50 lakh. In case of Ambala, registers were not properly maintained.

² Ambala, Faridabad, Gurgaon, Hisar and Panipat.

³ Ambala, Brara, Ballabgarh, Dabwali, Ellenabad, Faridabad, Gurgaon (South), Hansi, Hisar, Mohindergarh, Narnaul, Naraingarh, Pataudi, Panipat, Samalkha and Sirsa,

⁴ Ambala, Gurgaon, Hisar, Narnaul and Panipat.

The Government accepted the audit observations and stated that an amount of ₹ 9.87 lakh had been recovered and the concerned authorities have been directed to recover the balance amount of ₹ 19.63 lakh.

5.2.11 Non/short recovery of token tax from private/goods vehicles

5.2.11.1 The Government of Haryana notified the enhancement of token tax on 13 January 2011 based on the value of vehicles which are given in **Table 5.3**.

Table 5.3

A-Category of two wheelers of value	Rate of token tax on the value of vehicle (In percentage)	B-Category of Cars of value	Rate of token tax on the value of vehicle (In percentage)
Up to ₹ 60,000	2	Up to ₹ 5 lakh	2
Exceeds ₹ 60,000 and upto ₹ 4 lakh	4	Exceeds ₹ 5 lakh and upto ₹ 10 lakh	4
Exceeding ₹ 4 lakh	6	Exceeds ₹ 10 lakh and upto ₹ 20 lakh	6
		Exceeding ₹ 20 lakh	8

In six offices⁵ of RAs, 378 vehicles were registered at old rates instead of the new ones resulting into loss of revenue of ₹ 18.29 lakh for the years 2010-11 and 2011-12.

5.2.11.2 Further, the Government of Haryana notified the fixed rate of annual token tax⁶ on 18 January 2006 in respect of goods vehicles on the basis of its weight.

In four offices⁷ of Secretary, RTA, token tax amounting to ₹ 16.95 lakh in respect of 191 goods vehicles had not been recovered for the years 2007-08 to 2011-12.

The Government admitted the audit observations and stated that an amount of ₹ 1.10 lakh had been recovered and the concerned authorities had been directed to recover the balance amount of ₹ 34.14 lakh.

5.2.12 Short deposit/loss of interest on delayed deposit of Government revenue and non-attestation/verification of DCR/CTR register

Rules 2.2 and 2.7 of the Punjab Financial Rules (PFRs), as adopted by the Haryana Government, requires a Drawing and Disbursing Officer (DDO) to satisfy himself that all the monetary transactions are entered in the cash book

⁵ Hisar, Mohindergarh, Narnaul, Pataudi, Samalkha and Sirsa.

⁶ Up to 1.2 tons: ₹ 300; Exceeds 1.2 tons and up to 6 tons: ₹ 1,200; Exceeds 6 tons and up to 16.2 tons: ₹ 2,400; Exceeds 16.2 tons and up to 25 tons: ₹ 3,500 and Exceeding 25 tons: ₹ 4,500.

⁷ Ambala, Narnaul, Panipat and Sirsa.

as soon as they occur and are attested by him. Rule 2.7 *ibid* provides that the official who is not in-charge of the cash book, receives the money on behalf of the Government is required to deposit the amount into the treasury/bank on the same day or in the morning of the next day. The head of the office under rule 2.2(iii) is also required to verify all the entries including totals of all the entries in the cash book or have this done by some responsible official other than the writer of the cash book and initial that all entries are correct.

5.2.12.1 Scrutiny of DCR/Consolidated Treasury Receipt Register (CTR), receipt books and RC Registers of offices of RAs, Dabwali, Narnaul and Sirsa in December 2012 for the years 2009-10 to 2011-12, showed that an amount of ₹ 5.32 lakh (RA Sirsa: ₹ 4.57 lakh; RA Dabwali: ₹ 57,100 and RA Narnaul: ₹ 17,595) received on account of RC fees/token taxes etc. were not deposited into respective treasuries as provided in the rules. In case of Narnaul, receipt book was issued from the headquarter which was not entered in the DCR. This resulted into short account of ₹ 11,655. RA Dabwali received ₹ 73,585 in March 2012, out of which only ₹ 16,485 was deposited into treasury. This resulted into short deposit of ₹ 57,100.

The Government accepted the audit observation and stated that an amount of ₹69,000 had been recovered and the concerned authorities have been directed to recover the balance amount.

5.2.12.2 Scrutiny of DCR and CTR Register of offices of RA, Ballabgarh, Narnaul and office of Secretary, RTA Ambala for the period 2009-10 to 2011-12, showed that daily receipts on account of registration fee and token taxes involving a maximum amount of ₹ 17.22 lakh per day were deposited late ranging from three to six days. However, no interest was charged on account of delayed deposit. Further in the offices of RA, Ellenabad, Mohindergarh and Sirsa for the years 2010-11 and 2011-12, we noticed that daily receipts were deposited late ranging between four to 777 days. This resulted in loss of interest of ₹ 3.40 lakh.

The Government accepted the audit observations during the exit conference held in November 2013 and assured that directions would be issued to the concerned authorities to deposit the amount as per rule.

5.2.12.3 Scrutiny of DCR of the offices of Transport Commissioner, Haryana, Secretary, RTA, Ambala, and RA (MV) Faridabad in July 2012 for the years 2010-11 and 2011-12, showed that DCR was not signed by the competent authority nor totals of DCRs were checked by an official other than the writer of the cash book. RA/RTAs were not following the codal provisions.

5.2.12.4 As per rule 2.2 (v) of Punjab Financial Rules, when the Government money in the custody of a Government Officer are paid into treasury or the bank, the Head of Office making such payments should compare the treasury office's/bank's receipt on the challan or his pass book with the entry in the cash book before attesting it and satisfy himself that the amounts have been actually credited into treasury/bank by 15th of every month. He should obtain from the treasury a consolidated receipt for all remittances made during the previous month, which should be compared with the posting in the cash book.

During test check of consolidated treasury receipt register of RA Faridabad, Narnaul and RTA Faridabad for the year 2011-12, we noticed that CTR registers had not been verified by the concerned treasury offices.

5.2.13 Non-observance of MV rules

As per Section 41 (1) and (2) of MV Act, an application by or on behalf of the owner of a motor vehicle for registration shall be in such form and shall be accompanied by such documents, particulars and information and shall be accompanied by such fee as may be prescribed by the Central Government. Further, TC, Government of Haryana issued directions to all the RAs in March 2009 that, if any owner of a vehicle wants registration of his vehicle as per turn, he should, first of all be allotted registration number and thereafter RC fee should be charged having depicted engine and chassis numbers in the said registration number.

During scrutiny of RC Register, Receipt Books and related files of RA Panipat in February 2013 for the year 2011-12, we noticed that in 15 vehicles, receipt of RC fee and token tax were charged first and retained the file for out-of-turn choice numbers. Thereafter, allotment of registration numbers was made after a delay ranging from 39 to 99 days. By doing this, the vehicle owners get their own choice registration number with the connivance of dealing official. This resulted in not only loss to the State Government in the form of non-charging of additional fee for giving choice number to the owner of a vehicle but also caused delay in finalisation of RC cases.

5.2.14 Issue of driving licence without medical certificate/learners licence/proof of birth certificate

As per Instructions issued by Transport Department on 23 June 2006 under Section 3 of MV Act, issue of learners licence is compulsory before issue of regular driving licence, which is valid up to six months. Regular driving licence can be issued one month after issue of learners licence. Further, RA is required to obtain medical certificate and birth certificate from the applicant.

5.2.14.1 In RA, Samalkha, for the years 2010-11 and 2011-12, 15 regular licences were issued without issue of learner's licence.

5.2.14.2 In four offices⁸ of RA (MV), for the years 2010-11 and 2011-12, 90 driving licences were issued without obtaining medical certificates.

5.2.14.3 In RA Faridabad, for the period 2011-12, birth certificates were not obtained in eight cases.

On these being pointed out (September 2013), the Government accepted the audit observations during the exit conference (November 2013) and assured that corrective action would be taken.

5.2.15 Non observance of regulatory controls

As per provisions of the Scheme, the permit holders transport co-operative societies shall be required to furnish prescribed returns/statistical and other information, including particulars of drivers/conductors engaged by societies with suitable photographs to establish their identity, installation of fire

⁸ Ballabgarh, Faridabad, Naraingarh and Samalkha.

extinguishers and speed governors etc. to the concerned Authorities. Quarterly physical inspection of co-operative buses by RTAs for ascertaining operation of buses strictly in accordance with the provisions of the scheme is also required.

In ten RTAs no records pertaining to drivers and conductors engaged for 533 society buses, installation of fire safety gadgets and speed governors were maintained. Moreover, no quarterly inspection of the buses was conducted by the concerned RTAs.

On these being pointed out (September 2013), the Government accepted the audit observations during the exit conference (November 2013) and assured that corrective action would be taken.

5.2.16 Non recovery of additional fee due to out of turn allotment of registration numbers

The Haryana Government notification dated 27 November 2008 provides that anyone opts for out of turn allotment of special numbers would pay an additional fee of ₹ 10,000.

In five RAs⁹ and RTAs Gurgaon and Hisar for the year 2011-12, out of turn registration numbers were allotted in 242 cases but no additional fee were charged from these vehicles owners. This resulted in loss of revenue of ₹ 24.20 lakh.

On this being pointed out (September 2013), the Government accepted the audit observations during the exit conference (November 2013) and stated that an amount of ₹ 3.30 lakh had been recovered and assured that corrective action would be taken to recover the balance amount of ₹ 20.90 lakh.

5.2.17 Non-realisation of additional fee due to allotment of choice number in respect of Non-Government authorities/retention of choice registration mark

As per notification of December 2005 and revised in November 2008 under Section 65 of the MV Act, and the Haryana Motor Vehicles Rules, 1993 framed thereunder, the RA shall allot to the owner of non-transport¹⁰ vehicle, a registration mark of his choice on payment of prescribed additional fee. However, if the motor vehicle with Special numbers registration mark is being transferred in the name of other person, the same may be allowed by the RA on payment of additional fee as prescribed.

5.2.17.1 For the years 2007-08 to 2011-12, in 24 cases, the motor vehicles were allotted choice registration marks without charging additional fee, resulting in non-realisation of additional fee of ₹ 14.25 lakh.

5.2.17.2 In five offices¹¹ of RAs (MVs) and Hisar, Narnaul and Sirsa offices of Secretary, RTAs for the years 2007-08 to 2011-12, 29 motor vehicles with choice registration marks were transferred in the name of other persons during

⁹ Barwala, Gurgaon (South), Hisar, Mohindergarh and Panipat.

¹⁰ Non-transport vehicle means private service vehicle registered in the name of an individual and if declared to be used by him solely for personal purposes.

¹¹ Hisar, Mohindergarh, Naraingarh, Narnaul and Panipat.

the years 2007-08 to 2011-12, without charging additional fee resulting in loss of revenue of ₹ 4.70 lakh.

On this being pointed out (September 2013), the Government accepted the audit observations during the exit conference (November 2013) and stated that an amount of ₹ 70,000 had been recovered and assured that corrective action would be taken to recover the balance amount of ₹ 18.25 lakh.

5.2.18 Short recovery of token tax

Transport Commissioner, Haryana, issued instructions in May 2000 that vehicles designed to carry more than six passengers excluding driver, shall be registered as transport vehicle in the name of company/firm and will pay road tax at the rate of ₹ 400 per seat per annum besides charging permit fee.

In four offices¹² of Secretary, RTA for the years 2010-11 and 2011-12, 35 private service (non-transport) vehicles having seating capacity of more than six persons were registered in the name of companies/firms and lump sum/one time token tax amounting to ₹ 4.86 lakh was charged by the RAs (MVs) irregularly instead of charging ₹ 15.54 lakh at the rate of ₹ 400 per seat per annum. This resulted in short realisation of token tax of ₹ 10.68 lakh, besides permit fee.

On this being pointed out (September 2013), the Government accepted the audit observations during the exit conference (November 2013) and stated that an amount of ₹ 33,000 had been recovered and assured that corrective action would be taken to recover the balance amount of ₹ 10.35 lakh.

5.2.19 Non-assignment of new registration number to vehicles from other States

Under Rule 47 of MV Act and Notification by Transport Department of July 2005, a motor vehicle registered in one State has been kept in another State for a period exceeding twelve months, the owner of the vehicle shall, within such period, apply to the RA, within whose jurisdiction the vehicle was for the assignment of a new registration number and shall present the certificate of registration to that RA.

In eight offices¹³ of RA, for the years 2007-08 to 2011-12, 425 vehicles were transferred from other State to Haryana and these vehicles had not been assigned a new registration mark for the period ranging from one to five years resulting in non recovery of registration fee and token tax of ₹ 9.07 lakh.

5.2.20 Issue of driving licence after expiry of learners licence and renewal of driving licences beyond prescribed time

Under Section 14(1) of the MV Act provides that learner's licence shall be effective for a period of six months. Regular driving licence could not be issued on an expired learner's licence. For this purpose, learners licence would be issued afresh. As per instructions issued by STC in June 2006 that driving licence will be issued for the first time for 20 years or up to the age of

¹² Ambala, Hisar, Narnaul and Sirsa.

¹³ Ellenabad, Hansi, Hisar, Mohindergarh, Naraingarh, Panipat, Samalkha and Sirsa.

50 years, whichever is earlier. Thereafter, renewal of licence will be done for a period of five years.

5.2.20.1 In offices of RAs (MV) Faridabad and Samalkha, driving licences were issued in 26 cases although their corresponding learner's licences had already expired. This indicated non-compliance of provisions of MV Act.

5.2.20.2 In the office of RA (MV) Faridabad, 77 driving licences were renewed for periods ranging from eight to 20 years.

After pointed out these cases (September 2013), the Government accepted the audit observations during the exit conference (November 2013) and stated that an amount of ₹ 5.21 lakh had been recovered and assured that corrective action would be taken to recover the balance amount of ₹ 57.69 lakh.

5.2.21 Internal control

(i) Internal audit is a tool in the hands of management to assess itself that the prescribed systems are functioning well. The department stated in June 2013 that they had one Accounts Officer and three Section Officers (against 6 sanctioned posts) at headquarter who conduct internal audit in respect of levy and collection of taxes on motor vehicles.

For checking receipts of taxes on motor vehicles, the Department had not codified the internal audit procedures etc.

(ii) The department prescribed statements/returns relating to collection of taxes and disposal of challans which were required to be sent by field offices to headquarters office by 10th of each month.

Scrutiny of records noticed that field offices had sent the monthly returns regularly to Transport Commissioner. These returns were merely compiled but no further instructions/directions were issued to field offices during 2007-12 on improvement in collection of taxes and disposal of challans promptly to augment revenue. No separate meetings were held to review the performance. Thus, internal check and monitoring at Department level was inadequate.

5.2.22 Conclusion

The performance audit on 'Receipts from taxes on Motor Vehicles' showed a number of system and compliance deficiencies. The Department failed to collect tax due to lack of monitoring mechanism. There was a lack of co-ordination between Transport Commissioner Office and RAs/RTAs in field which resulted in non-realisation of penalty due to late registration. There was no effective system of monitoring the record of Demand and Collection Register and Consolidated Treasury Receipts. Co-operative buses were running on roads without renewal of permits and without payment of taxes. The Department did not follow the provisions of the Act/Rules and instructions issued by the Government due to which there was less receipt of token tax and assignment of registration marks much later after issue of cash receipts on account of registration fee and token tax. In case of issue of driving licenses, non-production of medical certificate in many cases, issue of regular driving licence even after expiry of learning license and without issue of learner's license were noticed.

5.2.23 Recommendations

The Government may consider the implementation of the following recommendations:

- BEs should be realistic;
- Head of the office should ensure that all the receipts are actually credited into treasury to prevent embezzlement of receipts;
- coordinating of Transport Commissioner with RAs/RTAs needs improvement; and
- there should be a provision for penalty in case of vehicles transferred from other States are not registered within a specified period of twelve months.

The above points were brought to the notice of the Government (September 2013) and discussed in the exit conference. The reply given by the Government had been suitably incorporated.

5.3 Non/short realisation of Passengers tax from Co-operative Transport Societies

5.3.1 Under the scheme of privatisation of passenger road transport, the permit holders of the buses plying on link routes of the State are required to pay lump sum passengers tax, monthly at the rate of ₹12,000 for 52/54 seater and ₹ 6,000 for 30 seater bus. In case of default, penalty not exceeding ₹ 5,000 is leviable under the Act.

In nine offices¹⁴ of DETC (PGT), 144¹⁵ out of 503 co-operative transport societies, did not deposit the monthly passenger tax amounting to ₹ 2.02 crore either in full or in part during the years 2007-08 to 2012-13. The Department had not raised the demand to realise tax from the defaulting societies.

5.3.2 Undue/irregular exemption of passengers tax to the co-operative transport societies

As per sub rule 2D (iii) of Rule 9 of (PPGT) Rules, 1952 read with provisions of “Private Bus Service Scheme-1993 and 2001”, and Haryana Passengers Transport Scheme, 2003 in case of non-operation of a bus exceeding a continuous period of 15 days for reasons beyond the control of owner and where permit is deposited, pro-rata relief shall be given in payment of passenger tax but no relief shall be given for the period during which a bus remains impounded under any law in force. Further, clause 14 and 15 of scheme 2001, provides that the bus shall not be taken out of allotted route except in exceptional circumstances for repair purposes with prior permission of competent authority. If bus is not able to run for any reason for a period exceeding two days, it will be obligatory for society to provide alternative bus and no concession in passengers tax shall be given for such periods except in cases when bus is unable to run due to the actual route being under flood water or due to an order of District Administration, prohibiting plying of vehicles on

¹⁴ Bhiwani, Fatehabad, Jind, Karnal, Kaithal, Narnaul, Palwal, Rohtak and Sirsa.

¹⁵ DETCs (PGT): Bhiwani: 14; Fatehabad: 31; Jind: 20; Karnal: 6; Kaithal: 21; Narnaul:2; Palwal:7; Rohtak: 13 and Sirsa: 30.

that route. As per clause 14 of scheme, 2003, if any bus, kept out of route due to breakdown/accident is not put back on the route within thirty days, the permit shall become liable to be cancelled and will be allotted to other eligible co-operative societies after following the prescribed procedure.

In five offices¹⁶ of the DETC (PGT), 18 co-operative transport societies kept their buses out of the allotted link route for period ranging between 7 to 63 months for reasons like route being unprofitable, mutual dispute of societies, repair/replacement of buses etc. which were not permissible under the scheme. No alternate buses were provided on the concerned routes. The DETCs (PGT) did not examine the above said reasons and allowed undue exemptions of passenger tax amounting to ₹ 54.14 lakh.

5.3.3 Co-operative transport society bus plying unregistered

Section-8 of the Punjab PPGT Act provides that no owner of a motor vehicle shall carry passengers or goods in or through the territory of the State of Haryana unless he obtains a registration certificate. Further, Section 9 (4) of the Act provides, if the prescribed authority is satisfied that any owner is liable to pay tax under the provision of the Act but who has willfully failed to apply for registration or to pay the tax or where such authority has reasons to believe the due tax has not been paid correctly, the said authority may, after giving the owner a reasonable opportunity of being heard, assess the amount of tax, if any due from the owner, and also direct the owner to pay, by way of penalty, a sum not exceeding five times the amount of tax so assessed.

In the office of DETC (PGT), Bhiwani three transport co-operative societies buses had been granted permits for plying on link routes by the office of the RTA Bhiwani. But these buses were not registered under the PPGT Act. Neither any action to register these buses was initiated nor any assessment of tax due towards concerned co-operative societies was made by the DETC (PGT) which resulted into loss of revenue amounting to ₹ 19.20 lakh.

On these being pointed out (September 2013), the Government accepted the audit observations during the exit conference (November 2013) and stated that an amount of ₹ 88.45 lakh had been recovered and efforts would be made to recover the balance amount of ₹ 1.67 crore.

¹⁶

Fatehabad, Jind, Kaithal, Rohtak and Sirsa.

CHAPTER VI: OTHER TAX AND NON-TAX RECEIPTS

6.1.1 Results of audit

Test check of the records in Excise and Taxation Department (Entertainment duty), Power (Taxes and duties on electricity), Mines and Geology, Industries and Land Revenue in 2012-13 revealed under assessments of tax and loss of revenue amounting to ₹ 1.04 crore in 333 cases which broadly fall under the categories detailed in **Table 6.1**.

Table 6.1

(₹ in crore)

Sr. No.	Category	Number of cases	Amount
A: Excise and Taxation Department (Entertainment duty)			
1.	Non-recovery of entertainment duty	1	0.02
B: Power Department (Taxes and duties on electricity)			
1.	Miscellaneous irregularities	56	0.04
C: Mines and Geology and Industries			
1.	Non-recovery of interest on late deposit of contract money	61	0.68
2.	Non-recovery of royalty and interest.	95	0.23
D: Land Revenue			
1.	Recovery of dues declared as arrears of land revenue	01	Nil
2.	Miscellaneous irregularities	119	0.07
	Total	333	1.04

During the year 2012-13, the Department accepted under assessment and other deficiencies of ₹ 65.08 lakh involved in 171 cases, out of which ₹ 21.95 lakh involved in 168 cases were pointed out during 2012-13 and the rest in earlier years. The department recovered ₹ 47.79 lakh in 32 cases during the year 2012-13, out of which ₹ 4.48 lakh involved in 29 cases relate to the year 2012-13 and the rest in earlier years.

Some illustrative cases are mentioned in the following paragraph:

Audit findings

6.2 Recovery of dues declared as arrears of land revenue

6.2.1 Introduction

The Departments of Government are primarily responsible for recovery of dues pertaining to them. If Government dues cannot be recovered by the Departments after exhausting all possible means, such dues are to be recovered as arrears of land revenue under the Punjab Land Revenue Act, 1887 (PLR Act) as applicable to the State of Haryana. As per Section 62 of the PLR Act, an arrear of land revenue is the first charge upon the rents, profits and produce of the land. Under the provisions of Section 67 of the PLR Act, an arrear of land revenue may be recovered through any one or more of the processes namely; (i) by service of writ of demand on the defaulter; (ii) by arrest and detention of his person; (iii) by distress sale of his movable property and uncut or ungathered crops; transfer of the holding in respect of which the arrear is due; attachment of the estate or holding in respect of which the arrear is due; annulment of assessment of the estate or holding; sale of that estate or holding and by proceedings against other immovable property of the defaulter.

Under Revenue Recovery Act, 1890, (RR Act), where a sum recoverable as an arrear of land revenue is from a defaulter having property in a district other than the one in which the arrear accrued, the concerned Collector may send a revenue recovery certificate (RRC) to the Collector of that district, where property of the defaulter is situated to recover the amount as if it was an arrear of land revenue accrued in his own district. The Collector of the other district shall, on receiving the Certificate, proceed to recover the amount stated.

6.2.2 Position of arrears

As per details available with Revenue Department of seven districts, 2,044 cases involving amount of ₹ 102.36 crore recoverable as arrears of land revenue were pending as on 30 September 2012. Year-wise position of recoverable demand, cases returned without recovery, recovery made and balance during last five years ending 2011-12 (1 October 2007 to 30 September 2012) are given in **Table 6.2**.

Table 6 2

(₹ in crore)

Year	Opening Balance	Fresh Demand	Total Demand	Cases Returned without recovery	Amount recovered	Balance	Percentage of Recovery (5 to 3)	Percentage of returned cases (4 to 3)
1	Amount/ Cases 2	Amount/ Cases 3	Amount/ Cases 4	Amount/ Cases 5	Amount/ Cases 6	Amount/ Cases 7	8	9
2007-08	47.64 (1,921)	103.37 (1,582)	151.01 (3,503)	100.01 (1,050)	4.85 (536)	46.15 (1,917)	3.21	66.23
2008-09	46.15 (1,917)	152.30 (1,600)	198.45 (3,517)	121.08 (894)	6.52 (550)	70.85 (2,073)	3.28	61.00
2009-10	70.85 (2,073)	63.29 (1,386)	134.14 (3,459)	71.78 (831)	10.69 (636)	51.67 (1,992)	7.97	53.51
2010-11	51.67 (1,992)	142.43 (1,487)	194.10 (3,479)	129.80 (979)	10.11 (695)	54.19 (1,805)	5.21	66.87
2011-12	54.19 (1,805)	163.65 (1,651)	217.84 (3,456)	104.18 (821)	11.30 (591)	102.36 (2,044)	5.19	47.82

(Number of cases shown in brackets)

The above table shows that the percentage of recovery of demand was quite low, ranging between 3.21 and 7.97 *per cent* during the five years. The percentage of cases returned by Collectors to Requisitioning Officers without recovery, for want of details of whereabouts/other details of the defaulters, ranged between 47.82 and 66.87 *per cent*. The Revenue Department did not fix any norms for disposal of certificate cases by each office leading to huge accumulation of pending cases.

6.2.3 Non/delayed accountal of Revenue Recovery Certificates (RRCs)

Test check of records of Running Register-II of the offices of District Revenue Officer (DRO) Gurgaon and Faridabad showed that DROs Gurgaon and Faridabad transferred 384 cases amounting to ₹ 90.11 crore to Tehsildar Gurgaon and Faridabad during five years but the concerned Tehsildars had not entered these RRCs in their RR-II registers which resulted in non-recovery of ₹ 90.11 crore. Test check of RR-II of Tehsildar Gurgaon, Faridabad and Ballabgarh in May 2013 showed that 67 cases amounting to ₹ 9.53 crore had been entered in the RR-II of the Tehsils with delay ranging between 8 to 88 months.

Tehsildars Faridabad and Gurgaon replied that all the cases had been entered in RR-II and concerned Collectors also confirmed the facts but no further action for recovery of arrears of land revenue had been initiated. This shows that the Department failed to initiate the action to recover the arrears of land revenue. We had not received further progress report of recovery (June 2013).

6.2.4 Non follow-up/delayed action

During test check of records of RRCs for the period 1 October 2007 to 30 September 2012, we noticed that, even first notices were not issued in 35 cases amounting to ₹ 54.28 lakh (**Annexure VI**) in Madlauda (Panipat district), Faridabad tehsils by the Tehsildars even after a lapse of period ranging between 8 to 43 months and in seven tehsils¹, though notices were issued but not served after a lapse of period ranging between four to 249 months in 87 cases amounting to ₹ 9.52 crore (**Annexure VII**) and in three tehsils, in 51 cases amounting to ₹ 1.80 crore (**Annexure VIII**), though notices were served to defaulters but no further action had been initiated as per Section 67 of PLR Act.

6.2.5 Failure to follow up the RRCs sent to other Collectors

As per records, recoveries in 1,345 cases involving an amount of ₹ 69.25 crore were pending as on 30 September 2012 against the defaulters having properties outside the districts/State. In such cases, RRCs under Revenue Recovery Act for effecting recovery were sent to the District Collectors of the district/States concerned where the defaulters had properties.

6.2.6 Non conduct of Internal Audit

Internal audit is a tool in the hands of management to assure itself that the prescribed systems are functioning well. A scrutiny of records in the office of

¹ Gurgaon, Farukhnagar (Gurgaon), Pataudi (Gurgaon), Samalkha (Panipat), Madlauda (Panipat), Faridabad and Rewari.

Additional Chief Secretary and Financial Commissioner to Government, Haryana and Collectors and Tehsildars of seven districts namely Ambala, Panipat, Gurgaon, Faridabad, Rewari, Jind and Hisar showed that no separate internal audit of “Dues declared as arrears of Land Revenue” was being conducted by FCR’s office. While conducting the audit of revenue collection under Major Head 0029-Land Revenue, comments on RR-II only were being offered.

6.2.7 Inadequate monitoring

- Scrutiny of records of Additional Chief Secretary and Financial Commissioner office, revealed that the prescribed monthly returns regarding arrears of land revenue were being received in time from the offices of Collectors in the State but the year-wise and district-wise position of opening balance, fresh demands, total demands, cases returned without recovery, recovery made and closing balance had not been prepared by that office to assess the position for monitoring.
- No regular monthly meetings for reviewing the position of recovery by DCs with Tehsildars (except in HSR) were held during the period 1 October 2007 to 30 September 2012. The Collector, Ambala stated that there is no prescribed periodicity of meeting. The Collector, Rewari stated that efforts would be made for regular monthly meetings and outstanding amount also be reviewed.
- It is evident that internal checks and monitoring at department level were not adequate.

These points were brought to the notice of the Government (August 2013), the Government accepted the audit observations during the exit conference (November 2013) and stated that instructions would be issued to the concerned Collectors to make sincere efforts by way of holding monthly meetings with SRs for expediting the recovery of the outstanding arrears of land revenue and also assured that comprehensive internal audit would be done in future.

MINES AND GEOLOGY DEPARTMENT

6.3 Non/short recovery of royalty and interest

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

During test check of records of seven offices² of MOs/AMEs, we noticed that 69 BKO's who were issued permits between April 2008 and April 2010 for the period of two years, did not pay due amount of royalty. The BKO's were required to pay royalty by 30th April of the respective years. Though, a period ranging between 12 to 36 months had elapsed up to March 2013, yet royalty of ₹ 10.14 lakh was neither paid by the BKO's nor it was demanded by the AMEs/MOs. No action to cancel the permits and/or to recover the dues as arrears of land revenue was taken. Lack of action on the part of the Department resulted in non-realisation of revenue of ₹14.88 lakh (including interest³ amounting to ₹ 4.74 lakh).

We reported the matter to the Government in July 2013. The Government accepted the audit observation during the exit conference (October 2013) and stated that an amount of ₹ 11.96 lakh (including interest of ₹ 3.62 lakh) had been recovered in 57 cases between October 2010 and September 2013 and efforts would be made to recover the outstanding amount of ₹ 2.92 lakh (including interest of ₹ 1.12 lakh) in 12 cases.

**Chandigarh
The**

**(ONKAR NATH)
Principal Accountant General (Audit) Haryana**

Countersigned

**New Delhi
The**

**(SHASHI KANT SHARMA)
Comptroller and Auditor General of India**

² MOs: Bhiwani, Jind, Narnaul, Rewari and Panipat; AMEs: Faridabad and Panchkula.
³ Interest calculated upto March 2013.

APPENDICES

Annexure-I
(Refer Paragraph No. 1.8.5)

Position of paragraphs which appeared in the Audit Reports and those pending discussion/replies not received as on 30 September 2013.

Name of tax		2008-09	2009-10	2010-11	2011-12	Total
Taxes on Sales, Trade etc.	Paras appeared in the AR/ pending discussion in the PAC	13	12	12	9	46
	Paras replies not received	0	0	0	9	9
Taxes on Motor Vehicles	Paras appeared in the AR/pending discussion in the PAC	0	2	3	1	6
	Paras replies not received	0	0	2	1	3
Stamp duty and Registration fee	Paras appeared in the AR/pending discussion in the PAC	0	1	6	6	13
	Paras replies not received	0	1	6	6	13
State Excise/PGT	Paras appeared in the AR/pending discussion in the PAC	4	2	1	3	10
	Paras replies not received	0	0	0	3	3
Others	Paras appeared in the AR/pending discussion in the PAC	1	4	1	1	7
	Paras replies not received	0	0	1	1	2
Total	Paras appeared in the AR/pending discussion in the PAC	18	21	23	20	82
	ATNs to Paras included in AR not received	0	1	9	20	30

Annexure-II

(Refer Paragraph No. 1.8.5)

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

Sr. No.	PAC Report No.	Total number of outstanding recommendations	Period of Audit Report
1.	22	3	1979-80
2.	23	4	1980-81
3.	25	4	1981-82
4.	26	3	1982-83
5.	28	2	1983-84
6.	29	8	1984-85
7.	32	4	1985-86
8.	34	12	1986-87
9.	36	6	1987-88
10.	38	11	1988-89
11.	40	23	1989-90
12.	42	31	1990-91, 1991-92, 1992-93
13.	44	41	1990-91, 1991-92, 1992-93
14.	46	9	1993-94
15.	48	10	1993-94, 1994-95
16.	50	41	1993-94, 1994-95, 1995-96
17.	52	31	1996-97
18.	54	43	1997-98
19.	58	64	1998-99, 1999-2000
20.	60	38	2000-01
21.	62	46	2001-02
22.	63	48	2002-03
23.	64	52	2003-04
24.	65	51	2004-05
25.	67	52	2005-06
26.	68	103	2006-07, 2007-08
Total		740	

Annexure-III
(Refer Paragraph No. 1.9.1)

Details of outstanding Inspection Reports as on 31 March 2013.

Year	Number of outstanding IRs	Para	Amount (₹ in crore)
Upto 2002-03	08	09	3.72
2003-04	02	03	8.78
2004-05	01	01	2.00
2005-06	06	07	7.20
2006-07	10	15	10.76
Total	27	35	32.46
2007-08	12	18	3.14
2008-09	10	14	1.00
2009-10	13	24	7.86
2010-11	22	55	9.49
2011-12	15	25	8.74
Grand Total	99	171	62.69

Annexure-IV
(Refer Paragraph No. 1.9.2.2)

Details of reviews and recommendations included in the Audit Reports for the years 2003-04 to 2011-12

Year of Audit Report	Name of the Review	Details of recommendations made
2005-06	Receipts from State Excise Duty	<p>To plug loopholes and enforce control over working of Excise Department in levy and collection of excise duties/fees etc., Government may consider:</p> <ul style="list-style-type: none"> ➤ to strengthen its revenue collection administration and modify lengthy procedures in order to expedite recovery from defaulters; ➤ to develop a strong internal control mechanism with a view to locate discrepancies in monthly returns submitted by field offices and to ensure that the process of recovering the dues is strengthened and monitored at apex level; and ➤ to implement penal provisions of the Acts/Rules by imposing deterrent penalty to discourage illegal trade of liquor.
2010-11	Receipts from State Excise duty	<p>In order to plug loopholes and enforce control over working of Excise Department in levy and collection of excise duty/fees etc. Government may consider the following suggestions for implementation:</p> <ul style="list-style-type: none"> ➤ Necessary amendments may be considered in the Act/Rules to fix norms for minimum yield of alcohol from grain; ➤ The penal provisions of the Acts/Rules may be implemented by imposing deterrent penalty to discourage illegal trade of liquor; ➤ The penal provisions for late deposit/non deposit of security/additional security may be introduced; ➤ The provision for cent per cent use of glass bottles instead of pet bottles for supply of CL by the distilleries may be introduced as pet bottles are not eco-friendly; ➤ The provision for taking action under criminal procedure code to ensure severe punishment may be introduced so that tendency of adulterating the liquor could be curbed; and ➤ Internal control mechanism may be strengthened and made more effective.

Annexure-V
(Refer Paragraph No. 1.10)
Audit plan for the year 2012-13

Sr. No.	Nature of receipts	Total no. of auditable units	A-Annual B-Biannual T-Triennial Q-Quadrille				No. of units planned for the year 2012-13				Total unit planned and audited during the 2012-13
			A	B	T	Q	A	B	T	Q	
1.	0039-State Excise	39	21	18	-	-	21	02	0	0	23
2.	0030- Stamp duty and Registration fee	119	59	60	-	-	58	30	0	0	88
3.	0041-Taxes on vehicles	75	21	54	-	-	21	31	0	0	52
4.	0042-Passengers and Goods tax	23	23	-	-	-	23	0	0	0	23
5.	0853-Mines and minerals	16	8	8	-	-	08	04	0	0	12
6.	040-Sales Tax	61	33	-	-	28	33	0	0	7	40
7.	0043-Electricity duty	4	1	-	-	3	0	0	0	01	01
8.	0045-Entertainment	23	-	-	-	23	-	-	-	-	-
9.	0029- Land Revenue	119	-	-	-	119	0	0	0	23	23
10.	0039-Pharmacy	18	-	-	-	18	0	0	0	03	03
	Total	497	166	140	-	191	164	67	0	34	265

Annexure V1

(Refer Paragraph No. 6.2.7)

Cases where even first notice was not issued

Sr. No.	Name of Tehsil	Number of Cases	Amount (in lakh)	Delay as on 31 March 2013 (In months)
1	Madlauda (Panipat)	25	3.29	9-43
2	Faridabad	10	50.99	8-18
	Total	35	54.28	16-80

Annexure VII

(Refer Paragraph No. 6.2.7)

Cases where notices issued but not served

Sr. No.	Name of Tehsil	Number of Cases	Amount (in crore)	Delay as on 31 March 2013 (In months)
1	Gurgaon	37	1.11	9-249
2	Farukh Nagar (Gurgaon)	6	0.07	10-78
3	Pataudi (Gurgaon)	8	0.04	16-72
4	Samalkha (Panipat)	7	0.01	5-13
5	Madlauda (Panipat)	14	0.52	13
6	Faridabad	6	7.74	11 -30
7	Rewari	9	0.03	4 -15
	Total	87	9.52	

Annexure VIII

(Refer Paragraph No. 6.2.7)

Cases where notices were served to defaulters but no further action was taken to recover the amount

Sr. No.	Name of Tehsil	Number of Cases	Amount (in crore)	Delay as on 31 March 2013 (In years)
1	Gurgaon	35	1.72	1-18
2	Faridabad	1	0.00 (21,300)	1-4
3	Rewari	15	0.08	16 to 80 Months
	Total	51	1.80	

GLOSSARY OF ABBREVIATIONS

ATNs	Action Taken Notes
AAs	Assessing Authorities
AETO	Assistant Excise and Taxation Officer
BEs	Budget Estimates
AMEs	Assistant Mining Engineers
BIFR	Board of Industrial and Financial Reconstruction
BBMB	Bhakra Beas Management Board
BKOs	Brick Kiln Owners
CL	Country Liquor
CST Act	Central Sales Tax Act, 1956
CTR	Consolidated Receipt Register
DETC	Deputy Excise and Taxation Commissioner
DHBVNL	Dakshin Haryana Bijli Vitran Nigam Limited
DCR	Daily Collection Register
DCs	Deputy Commissioners
DDO	Drawing and Disbursing Officer
ETC	Excise and Taxation Commissioner
ETOs	Excise and Taxation Officers
GOI	Government of India
GDP	Gross Domestic Product
GTO	Gross Turnover
HVAT Act	Haryana Value Added Tax Act, 2003
HGST Act	Haryana General Sales Tax Act, 1973
HVPNL	Haryana Vidyut Prasaran Nigam Limited
HPGCL	Haryana Power Generation Corporation Limited
HLL Rules	Haryana Liquor License Rules, 1970
HLADT	Haryana Local Area Development Tax
ITC	Input Tax Credit
IOCL	Indian Oil Corporation Limited
IS Act	Indian Stamp Act, 1899
IRs	Inspection Reports
IR Act	Indian Registration Act, 1908
IGR	Inspector General of Registration

IMFL	Indian Made Foreign Liquor
JSR	Joint Sub Registrar
JETC	Joint Excise and Taxation Commissioner
MV Act	Motor Vehicles Act, 1988
MO	Mining Officer
PAC	Public Accounts Committee
PAG	Principal Accountant General (Audit)
PSET	Principal Secretary, Excise and Taxation Department
PGT	Passengers and Goods Tax
PPGT Act	Punjab Passengers and Goods Taxation Act, 1952
PMVT Act	Punjab Motor Vehicles Taxation Act, 1924
PLs	Proof Litres
PFRs	Punjab Financial Rules
PLR Act	Punjab Land Revenue Act, 1887
RF	Registration Fees
RLA	Registering and Licensing Authority
RTA	Regional Transport Authority
RA (MV)	Registering Authority (Motor Vehicles)
RR Act	Revenue Recovery Act, 1890
RRC	Revenue Recovery Certificate
SD	Stamp Duty
SED	State Excise Duty
SR	Sub Registrar
SO	Section Officer
SDO	Sub Divisional Officer
TIN	Taxpayers Identification Number
TC	Transport Commissioner
TINXSYS	Tax Information Exchange System
UHBVNL	Uttar Haryana Bijli Vitran Nigam Limited
UHT	Ultra High Temperature
VAT	Value Added Tax
WCT	Works Contract Tax