सत्यमेव जयते

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

for the year ended 31 March 2013

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Government of Rajasthan

Report No. 4 of the year 2014

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Comptroller and Auditor General of India
on
Revenue Sector

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PREFACE

This Report is prepared for submission to the Governor of the State of Rajasthan under Article 151 of the Constitution of India.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising commercial taxes, taxes on vehicles, stamp duty and registration fees, other tax and non-tax receipts of the Government of Rajasthan.

The cases mentioned in the Report are among those which came to notice in the course of test audit of accounts during the year 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.

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

OVERVIEW

OVERVIEW

This Report contains 39 paragraphs involving ₹ 586.49 crore, including two Performance Audits on 'Recovery of arrears in Commercial Taxes Department' and 'Encroachment on Government Land'. Some of the significant audit findings are mentioned below:

I. General

The total revenue receipts of the Government of Rajasthan during 2012-13 were ₹ 66,913.01 crore as against ₹ 57,010.76 crore for the year 2011-12. The revenue raised by the Government amounted to ₹ 42,636.24 crore comprising tax revenue of ₹ 30,502.65 crore and non-tax revenue of ₹ 12,133.59 crore. The receipts from the Government of India were ₹ 24,276.77 crore (State's share of divisible Union taxes of ₹ 17,102.85 crore and grants-in-aid of ₹ 7,173.92 crore).

(Paragraph 1.1)

2,882 Inspection Reports (IRs) containing 9,489 paragraphs involving ₹ 7,731.42 crore remained outstanding at the end of June 2013. Of these, first replies to 80 IRs issued upto December 2012, were not received till 30 June 2013.

(Paragraph 1.2.1)

Test check during 2012-13 revealed underassessment, non levy/short levy of taxes and loss of revenue, failure to raise demands and other irregularities aggregating to ₹ 2,286.17 crore in 37,959 cases. The concerned Departments accepted underassessments and other deficiencies of ₹ 598.39 crore involved in 23,519 cases, of which 11,973 cases involving ₹ 217.42 crore were pointed out in audit during the year 2012-13 and the rest in earlier years. The Departments recovered ₹ 73.07 crore in 5,876 cases at the instance of audit during the year 2012-13.

(Paragraph 1.4.1)

II. Taxes on Sales, Trade *etc.*

A Performance Audit of 'Recovery of arrears in Commercial Taxes Department' revealed the following:

- The tax arrears increased from ₹ 2,996.96 crore to ₹ 4,838.04 crore during the period 2007-08 to 2011-12.

(Paragraph 2.9.7.1)

- No time frame was prescribed in the RVAT Act, 2003 or RVAT Rules, 2006 or by the Department to ensure initiation of recovery proceedings.

(Paragraph 2.9.9.3)

- Arrears of ₹ 69.01 lakh in four cases were not recovered due to failure of auctions of property.

(Paragraph 2.9.10)

- Test check of 259 cases of *ex-parte* assessments pertaining to the period 1977-78 to 2009-10 revealed non-recovery of demand of ₹ 49.44 crore and interest of ₹ 37.81 crore.

(Paragraph 2.9.12)

- Eight contractors who were engaged in collection of tax at check posts did not deposit the arrears amounting to ₹ 5.11 crore.

(Paragraph 2.9.13)

- Arrears of ₹ 82.42 lakh against two active dealers were not recovered though they were assessed regularly.

(Paragraph 2.9.14)

- Inadequate follow up action and delay in issuing Revenue Recovery Certificates in 12 cases pertaining to the dealers who were having property in other States resulted in non-recovery of ₹ 9.09 crore.

(Paragraph 2.9.15)

- Scrutiny of 48 cases revealed that dealers claimed input tax credit of ₹ 13.00 crore but the Assessing Authorities (AAs) did not allow the same for want of verification report from concerned AAs.

(Paragraph 2.9.16)

- Test check of recovery records of two dealers disclosed that AAs had not lodged interest claims with the Official Liquidator. This resulted in loss of interest of ₹ 5.86 crore.

(Paragraph 2.9.20)

Acceptance of Central Sales Tax (CST) declaration forms after assessment in contravention of CST Rules resulted in irregular concession/exemption of tax of ₹ 1.14 crore and interest of ₹ 28.65 lakh in nine cases.

(Paragraph 2.14)

Incorrect determination of tax payable resulted in excess grant of subsidy of ₹ 1.46 crore and loss of interest of ₹ 12.08 lakh.

(Paragraph 2.15.1 and 2.15.2)

Incorrect grant of deferment of tax resulted in short revenue realisation of ₹ 3.65 crore besides interest of ₹ 1.09 crore.

(Paragraph 2.16.1)

III. Taxes on Motor Vehicles

Motor vehicle tax and special road tax of ₹ 10.12 crore in respect of 3,705 vehicles for the period between April 2009 and March 2012 were either not paid or paid short.

(Paragraph 3.9.1)

Lump sum tax of ₹ 49.13 lakh payable by 117 vehicles was either not paid or paid short resulting in short-realisation/non-realisation of revenue.

(Paragraph 3.9.2)

IV. Land Revenue

A Performance Audit on 'Encroachment on Government Land' revealed the following:

- 4,503 trespassers or their family members continued to encroach on the same pieces of Government land year after year, the total land encroached in 13 *tehsils,* aggregated to 5,726.77 hectares. Out of these, 1,014 trespassers individually encroached land of five *Bigha* or more which worked out to 1,805.92 hectares valuing ₹ 61.27 crore.

(Paragraph 4.7.8.1)

- In 56 cases of Mangrol *Tehsil*, penalty and auction value of crops amounting to ₹ 7.09 lakh for the period from 2007-08 to 2011-12 was yet to be recovered.

(Paragraph 4.7.9)

- In 156 cases of Kotputli *Tehsil*, there was no evidence of auction of seized crop valuing ₹ 27.79 lakh on 83.23 hectares of Government land.

(Paragraph 4.7.9)

- Department realised only ₹ 1.76 crore by auction of crops cultivated illegally on 11,099.97 hectares of Government land. Realisable value of the crop works out to ₹ 24.46 crore on the basis of Minimum Support Price and productivity per hectare.

(Paragraph 4.7.10)

- Due to non-regularisation of the wells constructed on Government land, revenue of ₹ 1.68 crore could not be realised.

(Paragraph 4.7.11)

- In Gangapur City *Tehsil*, 77.27 hectares of evacuee land valuing ₹ 2.12 crore was under continuous encroachment.

(Paragraph 4.7.13.2)

- Allotment of 49.9 hectares of encroached land valuing ₹ 1.34 crore was made to 128 trespassers at reduced cost of ₹ 21.59 lakh on the basis of incorrect facts, causing loss to exchequer.

(Paragraph 4.7.14)

- There was a loss of revenue amounting to ₹ 34.93 lakh on allotment of 8.63 hectares of Government land to trespassers on concessional rates due to application of incorrect rule in Banswara *Tehsil*.

(Paragraph 4.7.14)

- *Tehsildars* levied penalties of ₹ 1.04 lakh against trespassers who had encroached upon valuable Government land valuing ₹ 160.66 crore for housing and commercial purposes.

(Paragraph 4.7.15.1)

- In 209 cases of Sojat City *Tehsil*, 111 trespassers had encroached upon 286.57 hectare of Government land valuing ₹ 3.82 crore since 1981-82 for growing *Mehandi* (henna) which is a permanent and commercial crop.

(Paragraph 4.7.15.3)

- There were encroachments on 0.7128 hectare of Government land valuing ₹ 5.96 crore in Bhilwara *Tehsil* by various communities but no effective action was taken for their eviction.

(Paragraph 4.7.16)

- In 101 cases of four *tehsils,* Government land was under encroachment for industrial use, where penalty of ₹ 0.38 lakh was charged instead of ₹ 1.03 crore.

(Paragraph 4.7.17)

- In 29 cases of three *tehsils*, *Tehsildars* charged penalty of only ₹ 240 instead of ₹ 16.54 crore considering the rent of ₹ 33.07 lakh for the Government land used for mining by the trespassers.

(Paragraph 4.7.18)

- In 49 cases of three *tehsils*, *Tehsildars* charged penalty of ₹ 970 instead of ₹ 68.38 lakh from trespassers for establishing brick kiln industry on Government land.

(Paragraph 4.7.19)

Khatedari land was used for non-agricultural purposes without conversion of land resulting in non-recovery of premium for conversion of land amounting to ₹ 8.11 crore.

(Paragraph 4.10)

Regularisation charges collected on use of agricultural land for non-agricultural purposes were not remitted in Government Account along with interest amounting to ₹ 1.23 crore.

(Paragraph 4.11)

V. Stamp Duty and Registration Fee

A Para on 'Levy and Collection of Land Tax' revealed the following:

- The AAs neither conducted the survey in their jurisdictional area nor identified the persons who were liable to pay land tax for the purpose of preparing a provisional assessment list.

(Paragraph 5.8.5)

- The provisional assessment lists were finalised without considering the objections raised by the assessees and without providing them proper opportunity of being heard. The final authenticated assessment lists were not published.

(Paragraph 5.8.6)

- Escapement from assessment of Land Tax resulted in non-levy of Land Tax of ₹ 7.29 crore.

(Paragraph 5.8.7)

- Issue of incorrect assessment orders resulted in over-assessment of Land Tax of ₹ 4.87 crore.

(Paragraph 5.8.8.3)

- The Assessing Authorities did not impose penalty amounting to ₹ 16.77 crore on delayed deposit of Land Tax.

(Paragraph 5.8.10)

Non-recovery of Stamp Duty on breach of conditions of Rajasthan Investment Promotion Scheme, 2003 and 2010 resulted in loss of revenue of ₹ 3.29 crore.

(Paragraph 5.11)

Incorrect valuation and under-valuation of properties on registration of lease deeds resulted in short levy of Stamp Duty and Registration Fee of ₹ 4.86 crore.

(Paragraph 5.12)

Under-valuation of properties due to incorrect application of rates and incorrect classification of documents resulted in short levy of Stamp Duty and Registration Fee amounting to ₹ 4.91 crore.

(Paragraph 5.14)

Stamp Duty amounting to ₹ 6.00 crore was not levied on the documents of transfer of lease by way of assignment.

(Paragraph 5.15)

Stamp Duty and Registration Fee amounting to ₹ 31.88 crore were not charged on lease deeds on differential market price of previous land and after its changed use.

(Paragraph 5.16)

VI. State Excise

A Para on 'Functioning of Excise Preventive Force' revealed the following:

- Incorrect entries of raids were made in movement registers and log books. There was no control mechanism to check the correctness and genuineness of entries made in such records.

(Paragraph 6.8.4.1)

- Staff of Excise Preventive Force (EPF) Stations treated patrolling and raids interchangeably and reported all entries made in the movement register as raids conducted by the EPF Station to higher authorities. Further, the Department did not periodically examine the list of sensitive places of production, collection and sale of illicit liquor in the State to ensure that they indeed continued to be sensitive.

(Paragraph 6.8.4.3)

- Patrolling Officers (POs) of selected 48 EPF Stations (out of 52) could not achieve their targets of detection and registration of the cases *i.e.* 120 cases per year. The performance of EPF Stations regarding Special Report cases was dismal.

(Paragraph 6.8.4.4)

- EPF officials did not make any enquiry to find out the source of supply of liquor to offenders and the investigation reports ended merely with the conclusion regarding possession of illicit liquor/*hathkad* liquor by the accused. Further, the enquiry officers did not complete investigation even after lapse of one to five years.

(Paragraph 6.8.4.5)

- There was no system in place in EPF Stations to share or exchange information regarding habitual offenders and suspected places of illicit liquor with State Police Department.

(Paragraph 6.8.6)

Wholesale depots of Canteen Store Department (CSD) located at Jaipur and Bikaner sold 67.98 lakh BL IMFL and 6.88 lakh BL beer to its retail off licencees (unit run canteens) in the State during the year 2011-12. However, Special Vend Fee (SVF) of ₹ 6.80 crore on IMFL and ₹ 0.34 crore on beer was neither deposited by the CSD nor demanded by the Department. This resulted in non-levy of SVF amounting to ₹ 7.14 crore.

(Paragraph 6.10.2)

During export of beer under bond by five Breweries outside the State, 1.32 lakh bulk litres (16,233 cartons) beer involving excise duty of ₹ 55.27 lakh were not delivered at the destination. Neither was the duty paid by the Breweries nor was it demanded by the Department. This resulted in non-levy of State Excise Duty of ₹ 55.27 lakh.

(Paragraph 6.10.3)

VII. Non-Tax Receipts

Department of Mines and Geology and Department of Petroleum

In six cases, demand of ₹ 1.57 crore in respect of 1,25,679 MT mineral masonry stone unlawfully excavated and despatched from the areas of illegally subletted leases areas, was neither raised nor recovered.

(Paragraph 7.7.1)

Delay/non-finalisation of excess royalty collection contract/royalty collection contract resulted in short recovery of royalty of ₹ 3.47 crore.

(Paragraph 7.7.3)

In 49 cases, cost of ₹ 10.87 crore for mineral marble excavated illegally from the areas of *bapi pattas* was not realised. The *bapi patta* holders were neither regularised nor evicted by the Department.

(Paragraph 7.7.5)

Excavation of mineral either without obtaining the short term permit or beyond the permissible limit resulted in short realisation of revenue of ₹ 6.70 crore.

(Paragraph 7.7.10)

Recovery of single royalty on mineral illegally removed/despatched instead of cost of mineral resulted in loss of revenue of ₹ 66.08 crore.

(Paragraph 7.7.11)

CHAPTER-I

GENERAL

CHAPTER-I: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the State Government, State's share of net proceeds of divisible Union taxes and duties assigned to State and grants-in-aid received from the Government of India during the year 2012-13 and the corresponding figures for the preceding four years are mentioned below:

(₹ in crore)

Sl. No.	Particulars	2008-09	2009-10	2010-11	2011-12	2012-13
1	**Revenue raised by the State Government**					
	Tax revenue	14,943.75	16,414.27	20,758.12	25,377.05	30,502.65
	Non-tax revenue	3,888.46	4,558.22	6,294.12	9,175.10	12,133.59
	Total	**18,832.21**	**20,972.49**	**27,052.24**	**34,552.15**	**42,636.24**
2	**Receipts from the Government of India**					
	Share of net proceeds of divisible Union taxes and duties	8,998.47	9,258.13	12,855.63	14,977.05	17,102.85
	Grants-in-aid	5,638.17	5,154.39	6,020.33	7,481.56	7,173.92
	Total	**14,636.64**	**14,412.52**	**18,875.96**	**22,458.61**	**24,276.77**
3	**Total revenue receipts of the State Government (1 and 2)**	**33,468.85**	**35,385.01**	**45,928.20**	**57,010.76**	**66,913.01**[1]
4	**Percentage of 1 to 3**	**56**	**59**	**59**	**61**	**64**

The above table indicates that during the year 2012-13, the revenue raised by the State Government (₹ 42,636.24 crore) was 64 *per cent* of the total revenue receipts. The remaining 36 *per cent* of receipts was received from the Government of India.

[1] For details, please refer Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Rajasthan for the year 2012-13. Figures under the head 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0022 - Taxes on agriculture income, 0032 - Taxes on wealth, 0037 - Customs, 0038 - Union excise duties and 0044 - Service tax - share of net proceeds assigned to State booked in the Finance Accounts under A - Tax revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this statement.

1.1.2 The following table presents the composition of tax revenue raised during the period from 2008-09 to 2012-13:

(₹ in crore)

Sl. No.	Heads 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.*	8,442.02	9,681.38	11,901.24	14,665.63	17,214.34	(+) 17
	Central sales tax	462.48	482.15	728.35	1,100.80	1,360.31	(+) 24
2.	State excise	2,169.90	2,300.48	2,861.41	3,287.05	3,987.83	(+) 21
3.	Stamp duty and registration fee						
	Stamps-judicial	30.61	30.47	43.07	79.40	144.27	(+) 82
	Stamps-non-judicial	1,137.54	1,104.79	1,522.01	2,153.68	2,693.13	(+) 25
	Registration fee	188.48	227.68	375.96	418.29	497.47	(+) 19
4.	Taxes and duties on electricity	654.05	699.99	905.81	1,094.48	1,570.06	(+) 43
5.	Taxes on motor vehicles	1,213.56	1,372.87	1,612.25	1,927.05	2,283.13	(+) 18
6.	Taxes on goods and passengers	189.87	176.10	230.69	220.13	248.57	(+) 13
7.	Other taxes on income and expenditure, tax on professions, trades, callings and employments	0.04	0.04	0.02	0.06	0.19	(+) 217
8.	Other taxes and duties on commodities and services	64.52	58.52	64.43	43.44	48.47	(+) 12
9.	Land revenue	162.52	147.66	222.17	209.01	304.55	(+) 46
10.	Other taxes	228.16	132.14	290.71	178.03	150.33	(-) 16
Total		**14,943.75**	**16,414.27**	**20,758.12**	**25,377.05**	**30,502.65**	**(+) 20**

The following reasons for variations in 2012-13 as compared to 2011-12 were reported by the concerned Departments:

Taxes on sales, trade *etc.*: The increase (17 *per cent*) was due to intensive monitoring, check on tax evasion, recovery efforts of the Department, increase in the rate of tax on some commodities.

Central sales tax: The increase (24 *per cent*) was due to proper monitoring, check on tax evasion and recovery efforts of the Department.

State excise: The increase (21 *per cent*) was mainly due to higher receipts from sale of malt liquor, foreign liquor and spirits, increase in guarantee amount and licence fees and effective Excise Preventive Force activities.

Stamp duty and registration fees: The increase (26 *per cent*) was due to higher sales of non-judicial stamps, fees for registering documents and court fees and increase in rates of land fixed by DLC[2].

Taxes and duties on electricity: The increase (43 *per cent*) was due to higher receipt of taxes on consumption and sale of electricity.

Taxes on motor vehicles: The increase (18 *per cent*) was mainly due to higher receipt of taxes, surcharge, green tax etc.

Taxes on goods and passengers: The increase (13 *per cent*) was mainly due to higher receipt of entry tax on goods.

1.1.3 The following table presents the details of the non-tax revenue raised by the State during the period from 2008-09 to 2012-13:

(₹ in crore)

Sl. No.	Heads of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+)/ decrease (-) in 2012-13 over 2011-12
1.	Interest receipts	1,195.96	1,185.45	1,276.70	1,714.53	2,067.00	(+) 21
2.	Forestry and wildlife	57.74	56.35	93.20	74.95	91.24	(+) 22
3.	Non-ferrous mining and metallurgical industries	1,275.59	1,612.26	1,929.58	2,366.32	2,838.59	(+) 20
4.	Miscellaneous general services	580.33	739.30	271.19	353.09	686.10	(+) 94
5.	Major and medium irrigation	54.16	48.83	86.04	91.83	87.21	(-) 5
6.	Medical and public health	36.87	56.55	45.46	59.38	96.04	(+) 62
7.	Cooperation	18.13	21.03	16.35	22.38	22.02	(-) 2
8.	Public works	93.43	62.75	62.10	55.85	57.63	(+) 3
9.	Police	71.43	126.24	133.93	143.54	192.07	(+) 34
10.	Other administrative services	49.57	49.12	80.33	110.99	85.50	(-) 23
11.	Other non-tax receipts	455.25	600.34	2,299.24	4,182.24	5,910.19	(+) 41
Total		**3,888.46**	**4,558.22**	**6,294.12**	**9,175.10**	**12,133.59**	**(+) 32**

The following reasons for variations in 2012-13 as compared to 2011-12 were reported by the concerned Departments:

Interest receipts: The increase (21 *per cent*) was mainly due to higher receipts of interest on investment of cash balance.

[2] District Level Committee.

Forestry and wildlife: The increase (22 *per cent*) was mainly due to higher receipts under forestry and wildlife, sale of timber and forest produce.

Medical and public health: The increase (62 *per cent*) was mainly due to higher receipts from the Employees State Insurance Scheme and other receipts.

Police: The increase (34 *per cent*) was mainly due to higher receipts from police personnel supplied to other Government parties, other receipts and more receipts under head Receipt of State Headquarter Police.

The reasons for variation(s) in respect of remaining heads of revenue despite being called for (April/June 2013) from the concerned Departments were not received (December 2013).

1.2 Response of the Government/Department towards Audit observations

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

1.2.1 Outstanding IRs and audit observations

Scrutiny of IRs, issued up to 31st December 2012, disclosed that 9,489 audit observations involving ₹ 7,731.42 crore relating to 2,882 IRs were outstanding at the end of June 2013. The details of IRs and audit observations outstanding along with the corresponding figures for the preceding two years are mentioned in the following table:

Particulars	June 2011	June 2012	June 2013
Number of outstanding IRs	2,469	2,628	2,882
Number of outstanding audit observations	7,464	8,260	9,489
Amount involved (₹ in crore)	2,748.76	5,958.95	7,731.42

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2013 and the amounts involved therein are mentioned below:

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Amount involved (₹ in crore)
1.	Commercial Taxes	Taxes/VAT on sales, trade *etc.*	554	2,577	3,229.46
		Entertainment tax, luxury tax *etc.*	27	33	7.29
2.	Transport	Taxes on motor vehicles	424	1,490	204.37
3.	Land Revenue	Land revenue	259	539	1,157.25
		Land and buildings tax	8	12	0.50
4.	Registration and Stamps	Stamp duty and registration fee	1,183	3,156	145.28
5.	State Excise	State excise	156	349	325.58
6.	Mines and Geology, Petroleum	Non-ferrous mining and metallurgical industries	271	1,333	2,661.69
Total			**2,882**	**9,489**	**7,731.42**

Initial replies required to be received from the heads of offices within one month from the date of issue of the IRs, were not received (by 30 June 2013) in respect of 80 IRs issued up to December 2012. This large pendency of the IRs is indicative of the fact that the heads of offices and heads of the Departments had not initiated any action to rectify the defects, omissions and irregularities pointed out by the Accountant General in the IRs.

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

1.2.2 Departmental Audit Committee Meetings

The Government set up audit committee's[3] to monitor and expedite the progress of settlement of paragraphs in the IRs. The Departments were required to conduct at least four meetings (one in each quarter) of the audit committee in a year. Besides, for settlement of audit observations, audit sub-committee meetings were also to be organised by the Departments. The details of the audit committee and audit sub-committee meetings held during the year 2012-13 and

[3] Audit Committees, *inter alia*, comprising of Secretary of concerned Departments and Accountant General/his representative, were formed as per Circular No. 1/2005 dated 18.1.2005 of Government of Rajasthan. In addition to this, audit sub-committees comprising of Officers of the Departments and representative of Accountant General, are also formed.

the paragraphs settled are mentioned below:

Name of Department	Number of audit committee meetings held	Number of audit sub-committee meetings held	Number of paragraphs settled	Amount (₹ in crore)
Commercial Taxes	2	1	-	-
Transport	3	6	57	2.77
Land Revenue	-	6	-	-
Registration and Stamps	2	13	126	1.40
State Excise	3	4	80	7.21
Mines and Geology, Petroleum	1	-	-	-
Total	**11**	**30**	**263**	**11.38**

The above table indicates that against 24 audit committee meetings that to be held only 11 were held.

It is recommended that the Government may strengthen the mechanism of audit committee meetings and issue instructions for increasing the frequency of audit committee meetings.

1.2.3 Response of the Departments

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

Fifty two draft paragraphs (clubbed into 39 paragraphs in this report) including two Performance Audits on 'Recovery of arrears in Commercial Taxes Department' and 'Encroachment on Government Land' proposed to be included in the Report of the Comptroller and Auditor General of India (Revenue Sector) for the year ended 31 March 2013 were forwarded to the Secretaries of the respective Departments between September and December 2013. Of these replies were received in 50 draft paragraphs consisting of 68 cases. In addition to this, the findings of the Performance Audits on 'Recovery of arrears in Commercial Taxes Department' and 'Encroachment on Government Land' were discussed with the concerned Departments/Government in the Exit Conferences.

1.2.4 Follow-up on Audit Reports - summarised position

The position of paragraphs which appeared in the Audit Reports and those pending discussion as on 31 December 2013 is given in **Appendix-A**. A total of 99 paragraphs pertaining to the period 2005-06 to 2011-12 were pending for discussion by the Public Accounts Committee.

As per the Rules and Procedures of the Public Accounts Committee of the Rajasthan State Assembly framed in 1997, the concerned Departments have to take necessary steps to send their action taken notes on the recommendations of the Public Accounts Committee on the Audit Reports within six months from the date of its presentation to the House. We observed that 251 action taken notes were outstanding as on 31 December 2013 as detailed in **Appendix-B**.

1.2.5 Compliance to the earlier Audit Reports

The position of paragraphs included in the Audit Reports of the last 10 years, accepted by the Departments and the amount recovered as on 31 December 2013 is mentioned below:

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year[4]	Total recovery as on 31 December 2013
2002-03	46	382.52	36	220.03	Nil	62.83
2003-04	31	381.48	30	234.77	Nil	49.52
2004-05	27	276.63	23	16.14	Nil	6.15
2005-06	39	352.81	27	118.93	Nil	23.28
2006-07	41	315.25	25	254.28	Nil	6.60
2007-08	39	666.55	34	247.33	0.51	99.70
2008-09	48	392.71	35	72.25	1.78	23.63
2009-10	28	638.85	21	432.30	5.76	22.89
2010-11	32	617.96	21	341.98	2.97	10.66
2011-12	43	763.52	31	405.06	15.88	15.88
Total	**374**	**4,788.28**	**283**	**2,343.07**	**26.90**	**321.14**

During the years 2002-03 to 2011-12, 374 paragraphs involving ₹ 4,788.28 crore were included in the Audit Reports. The Government/Departments accepted audit observations involving ₹ 2,343.07 crore, of which only ₹ 321.14 crore (13.70 *per cent*) had been recovered as on 31 December 2013.

The Government may ensure that all recoveries are made in the cases where the paragraphs have been accepted.

1.3 Audit planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which 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

[4] January 2013 to December 2013.

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

The audit universe comprised 761 auditable units. Of these, 382 units were planned for audit during 2012-13 and 380 units were audited. The remaining two units could not be audited due to non-production of records despite request for the same (March 2013). Besides the compliance audit, two performance audits were also taken up to examine the efficacy and working/procedure of the Departments.

1.4 Results of audit

1.4.1 Position of local audit conducted during the year

Test check of the records of 380 units of Commercial Taxes, Transport, Land Revenue, Registration and Stamps, State Excise, Mining and other Departmental offices conducted during the year 2012-13 revealed underassessments, short levy/loss of revenue *etc.* aggregating to ₹ 2,286.17 crore in 37,959 cases. During the year, the concerned Departments accepted underassessments and other deficiencies in 23,519 cases involving Government revenue of ₹ 598.39 crore, of which 11,973 cases involving ₹ 217.42 crore were pointed out in audit during 2012-13 and the rest in the earlier years. The Departments recovered ₹ 73.07 crore in 5,876 cases during 2012-13.

1.4.2 This Report

This Report contains 39 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years which could not be included in earlier reports) with financial effect of ₹ 586.49 crore including two Performance Audits on 'Recovery of arrears in Commercial Taxes Department' and 'Encroachment on Government Land' involving revenue implications of ₹ 369.02 crore. The Departments/Government have accepted audit observations involving ₹ 87.57 crore, of which ₹ 11.30 crore have been recovered. The replies in the remaining cases have not been received (December 2013). These are discussed in chapters II to VII.

CHAPTER-II

TAXES ON SALES, TRADE ETC.

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

2.1 Tax administration

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

1. Rajasthan Value Added Tax (RVAT) Act, 2003;
2. Rajasthan Value Added Tax (RVAT) Rules, 2006;
3. Central Sales Tax (CST) Act, 1956;
4. Central Sales Tax (CST) Rules, 1957;
5. Rajasthan Tax on Entry of Goods into Local Areas Act, 1999 ;
6. Rajasthan Tax on Luxuries (in Hotels and Lodging Houses) Act, 1990;
7. Rajasthan Entertainments and Advertisements Tax Act, 1957; and
8. Rajasthan Electricity (Duty) Act, 1962.

The assessment, levy and collection of Value Added Tax (VAT) in Rajasthan is governed by the RVAT Act, 2003 effective from 1 April 2006. Prior to this, Rajasthan Sales Tax (RST) Act, 1994 was in operation which was repealed with the implementation of RVAT Act. However, the cases pertaining to RST regime continued to be governed by the RST Act. Besides, CST Act, 1956 and the rules made thereunder are also in operation for inter-state sales.

The Commissioner Commercial Taxes (CCT) administers the above mentioned Acts and Rules under the overall control of Secretary, Finance (Revenue) Department, Government of Rajasthan. The CCT is assisted by 8 Additional Commissioners, 34 Deputy Commissioners (DC) and a Financial Adviser. For effective implementation of Government policies and taxation activities, the Commercial Taxes Department (Department) is divided into 14 Zones. The DC is the senior most administrative officer at the zonal level.

2.2 Trend of receipts

Actual receipts from the taxes on sales, trade *etc. vis-a-vis* budget estimates during the years 2008-09 to 2012-13 along with the total tax receipts of the

State during the same period are exhibited in the following table:

(₹ in crore)

Year	Budget estimates taxes on sales, trade *etc.*	Actual receipts from taxes on sales, trade *etc.*	Variation excess (+)/ shortfall (-)	Percen-tage of variation	Rate of growth	Total tax receipts of the State	Percentage of actual receipts (3) to total tax receipts (7)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2008-09	8,500.00	8,904.50	(+) 404.50	(+) 4.76	14.89	14,943.75	59.59
2009-10	10,030.00	10,163.53	(+) 133.53	(+) 1.33	14.14	16,414.27	61.92
2010-11	11,730.00	12,629.59	(+) 899.59	(+) 7.67	24.26	20,758.12	60.84
2011-12	13,490.00	15,766.43	(+) 2,276.43	(+) 16.87	24.84	25,377.05	62.13
2012-13	16,550.00	18,574.65	(+) 2,024.65	(+) 12.23	17.81	30,502.65	60.90

Source: Furnished by the Commercial Taxes Department.

The receipts from the taxes on sales, trade *etc.* ranged between 59.59 and 62.13 *per cent* of the total tax receipts of the State between the period 2008-09 to 2012-13 and is a major contributor to revenue receipts of the State.

2.3 Collection of VAT per assessee

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

Year	Number of assessees	Sales tax/VAT revenue (₹ in crore)	Revenue per assessee (₹ in lakh)
2008-09	3,44,852	8,904.50	2.58
2009-10	3,76,688	10,163.53	2.70
2010-11	4,09,323	12,629.59	3.09
2011-12	4,40,842*	15,766.43	3.58
2012-13	4,71,505 **	18,574.65	3.94**

* Figures furnished by the Department shown in the last year Audit Report were provisional.

** Provisional figures.

The figures indicate that collection of VAT per assessee is showing an increasing trend.

2.4 Arrears in assessment

As per Section 23 of RVAT Act, 2003 the dealer who has filed returns within prescribed time shall be deemed to have been assessed on the basis of returns filed by him. Any mistakes or errors noticed during scrutiny of the returns by the Department are to be rectified by the dealer in accordance with provisions of Section 24 of the RVAT Act, 2003.

The details of cases pending assessment during the years 2008-09 to 2012-13 are mentioned below:

Year	Opening balance	New cases due for assessment	Total	Cases disposed of	Cases pending at the end of year
2008-09	1,344	2,54,289	2,55,633	2,55,262	371
2009-10	371	3,03,950	3,04,321	3,04,222	99
2010-11	99	3,20,298	3,20,397	3,20,382	15
2011-12	15	3,25,019	3,25,034	3,25,024	10
2012-13	10	3,59,569	3,59,579	3,59,559	20

Source: Furnished by the Commercial Taxes Department.

As would be seen the cases pending assessment have come down significantly from 371 at the end of 2008-09 to 20 at the end of 2012-13.

2.5 Cost of collection

The gross collection of the revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the period from 2008-09 to 2012-13 along with the relevant all India average percentage of expenditure on collection to gross collection for the period are as follows:

(₹ in crore)

Sl. No.	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection to gross collection	All India average percentage
1.	2008-09	8,904.50	70.21	0.80	0.88
2.	2009-10	10,163.53	85.90	0.85	0.96
3.	2010-11	12,629.59	86.97	0.69	0.75
4.	2011-12	15,766.43	84.89	0.54	0.83
5.	2012-13	18,574.65	88.61	0.48	Not available

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

2.6 Impact of Audit Reports

During the last five years upto 2011-12, cases of non levy/short levy, non realisation/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation of tax *etc.* with revenue implication of ₹ 551.98 crore in 38 paragraphs were pointed out through Audit Reports. Of these, the Department/Government had accepted audit observations in 30 paragraphs involving ₹ 361.01 crore and recovered ₹ 5.33 crore up to December 2013. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered*	
	Number	Amount	Number	Amount	Number of paragraphs	Amount
2007-08	5	17.88	3	0.82	3	0.54
2008-09	10	28.25	7	17.79	5	0.96
2009-10	8	4.47	6	3.38	6	1.18
2010-11	9	105.18	9	3.38	7	1.95
2011-12	6	396.20	5	335.64	3	0.70
Total	**38**	**551.98**	**30**	**361.01**	**24**	**5.33**

* Amount recovered partly in some paras.

It is evident from the above table that recovery against the amount objected and accepted was one *per cent* and one and half *per cent* respectively.

The Government may ensure that all recoveries are made in the cases where the paragraphs have been accepted.

2.7 Working of Internal Audit Wing

The Financial Adviser is the head of the Internal Audit Wing. There are 13 internal audit parties in the Department, each headed by an Assistant Accounts Officer. Planning for internal audit of units is done on the basis of importance of units and revenue realisation. The position of units audited by the Internal Audit Wing during the last five years is as under:

Year	Pending units for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in *per cent*
2008-09	65	396	461	357	104	23
2009-10	104	393	497	299	198	40
2010-11	198	384	582	489	93	16
2011-12	93	384	477	411	66	14
2012-13	66	384	450	267	183	41

There was a shortfall in conducting internal audit ranging between 14 and 41 *per cent* during the years 2008-09 to 2012-13.

It was further noticed that 17,202 paragraphs of internal audit were outstanding at the end of the year 2012-13. The year-wise break up of outstanding paragraphs is as under:

Year	Upto 2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	Total
No. of paras	9,325	1,557	1,618	1,459	1,811	1,432	**17,202**

Non-settlement of large number of outstanding paragraphs indicates that the Department is not monitoring settlement of the observations raised by its own Internal Audit Wing.

It is recommended that the Department may take immediate effective steps to address the issues raised by the Internal Audit Wing.

2.8 Results of Audit

During test check of the records of 89 out of 154 units of the Commercial Taxes Department conducted during the year 2012-13, cases of non-assessment/underassessment of tax, irregular grant of exemption, non-levy of interest and other irregularities amounting to ₹ 275.96 crore in 1,322 cases were noticed. These cases broadly fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Performance Audit on 'Recovery of arrears in Commercial Taxes Department'	1	150.02
2.	Non-assessment of taxable turnover	275	17.38
3.	Under-assessment due to irregular or incorrect allowances of deduction	86	5.37
4.	Short levy of tax due to application of incorrect rate of tax	77	6.25
5.	Irregular grant of exemption	124	16.41
6.	Non-levy of purchase tax	7	0.38
7.	Non-levy of penalty/interest	154	7.69
8.	Other irregularities		
	(i) Revenue	554	72.24
	(ii) Expenditure	44	0.22
Total		**1,322**	**275.96**

During the year 2012-13, the Department accepted under-assessment and other deficiencies of ₹ 4.59 crore in 615 cases of which 28 cases involving ₹ 21.63 lakh were pointed out in audit during the year 2012-13 and the rest in the earlier years. During the year 2012-13, the Department recovered ₹ 10.20 lakh in 22 cases pertaining to earlier years.

In three cases the Department recovered entire amount of ₹ 59.58 lakh after issue of draft paragraph to the Department and the Government.

A Performance Audit on 'Recovery of arrears in Commercial Taxes Department' involving ₹ 150.02 crore and a few illustrative audit observations involving ₹ 10.54 crore are mentioned in the succeeding paragraphs.

2.9 Performance Audit on 'Recovery of arrears in Commercial Taxes Department'

Highlights

- The tax arrears increased from ₹ 2,996.96 crore to ₹ 4,838.04 crore during the period 2007-08 to 2011-12.

(Paragraph 2.9.7.1)

- No time frame was prescribed in the RVAT Act, 2003 or RVAT Rules, 2006 or by the Department to ensure initiation of recovery proceedings.

(Paragraph 2.9.9.3)

- Arrears of ₹ 69.01 lakh in four cases were not recovered due to failure of auctions of property.

(Paragraph 2.9.10)

- Test check of 259 cases of *ex-parte* assessments pertaining to the period 1977-78 to 2009-10 revealed non-recovery of demand of ₹ 49.44 crore and interest of ₹ 37.81 crore.

(Paragraph 2.9.12)

- Eight contractors who were engaged in collection of tax at check posts did not deposit the arrears amounting to ₹ 5.11 crore.

(Paragraph 2.9.13)

- Arrears of ₹ 82.42 lakh against two active dealers were not recovered though they were assessed regularly.

(Paragraph 2.9.14)

- Inadequate follow up action and delay in issuing Revenue Recovery Certificates in 12 cases pertaining to the dealers who were having property in other States resulted in non-recovery of ₹ 9.09 crore.

(Paragraph 2.9.15)

- Scrutiny of 48 cases revealed that dealers claimed input tax credit of ₹ 13.00 crore but the AAs did not allow the same for want of verification report from concerned AAs.

(Paragraph 2.9.16)

- Arrears of tax of ₹ 1.34 crore were outstanding due to delay in verification of tax deposited by dealers at check posts and as TDS by the Department.

(Paragraph 2.9.17)

- Due to non-submission of CST declaration forms in 178 cases pertaining to the period from 1992-93 to 2009-10, demand of ₹ 10.51 crore and interest of ₹ 2.31 crore remained outstanding for recovery.

(Paragraph 2.9.18)

- RST/RVAT declaration forms in 64 cases pertaining to the period from 1993-94 to 2009-10 were not submitted with the result that demand of ₹ 2.09 crore and interest of ₹ 1.13 crore were outstanding for recovery.

(Paragraph 2.9.19)

- Test check of recovery records of two dealers disclosed that AAs had not lodged interest claims with the Official Liquidator. This resulted in loss of interest of ₹ 5.86 crore.

(Paragraph 2.9.20)

- Inadequate follow-up with Debt Recovery Tribunal (DRT) resulted in non-realisation of arrear of tax of ₹ 1.99 crore from a company. The DRT had sold out the movable and immovable property of the company in 2005 and the sale proceeds had been distributed among financial institutions without leaving any distributable assets.

(Paragraph 2.9.21)

- No exercise was undertaken by the Department to revise amount of security deposit to the extent of 25 *per cent* of the highest tax liability of the preceding month or the quarters or the year, as the case may be, in case of dealers who did not make timely payment of tax.

(Paragraph 2.9.23.2)

2.9.1 Introduction

The assessment, levy and collection of Value Added Tax (VAT) and Central Sales Tax (CST) are governed by the Rajasthan Value Added Tax (RVAT) Act, 2003, the Central Sales Tax (CST) Act, 1956 and the Rules framed thereunder. Prior to enactment of RVAT Act, Rajasthan Sales Tax (RST) Act, 1994 and Rules framed thereunder were applicable on sale of goods in any form within State.

A registered dealer is deemed to be assessed quarterly or annually on the basis of the returns filed by him in accordance with Section 23 of RVAT Act, 2003. Under the provisions of Rule 27 of the RST Rules and Rule 24 of RVAT Rules, the dealer is required to pay demand within thirty days of service of demand notice or as specified in such notice by the Assessing Authority (AA). If any demand remains outstanding at the end of the year, the same should be carried forward in next year's Demand and Collection Register (DCR). In case of failure on the part of the assessee to pay the amount within the date mentioned in the demand notice, the Department can recover the unpaid amount as if these were arrears of land revenue under Section 52 of RST Act and Section 49 of RVAT Act.

As per Sections 42 to 53 of the RST Act and Sections 38 to 50 of the RVAT Act, for the purpose of effecting recovery of the demand which is due and recoverable from any dealer as arrears of land revenue, the Commissioner, Commercial Taxes (CCT) or his subordinate officers authorised on this behalf, have all the powers and can perform all the functions under the Rajasthan Land Revenue (RLR) Act, 1956, which comprise the serving the writ of

demand, warrant of attachment and sale of property including the process of attachment of property.

In cases where the defaulters do not own any property in the State but have property in some other States, the concerned AA has to forward the demand cases to the Collectors of the districts of the States in which the defaulters possess property, as per the provisions of the Revenue Recovery (RR) Act, 1890.

2.9.2 Organisational setup

The CCT administers the above mentioned Acts and Rules under the overall control of Secretary, Finance (Revenue) Department, Government of Rajasthan. The CCT is assisted by 8 Additional Commissioners, 34 Deputy Commissioners (DC) and a Financial Adviser. For effective implementation of Government policies and taxation activities, the Commercial Taxes Department (Department) is divided into 14 Zones. A separate wing for Inspection, Audit and Recovery (IAR) was formed with the objective of monitoring the recovery of the old arrears in 2007-08. DCs (Administration) who is the senior most administrative at the zonal level was responsible for monitoring the recoveries under the overall control of the Additional Commissioner, Inspection, Audit and Recovery (IAR).

The assessment and recovery of tax is undertaken by AAs at the level of Assistant Commissioners (AC)/Commercial Taxes Officers (CTO) and Assistant Commercial Taxes Officers (ACTO) posted in circles and wards respectively. For hearing of appeals against the orders passed by AAs there are 11 DCs (Appeals), who are the first appellate authorities.

2.9.3 Audit objectives

The Performance Audit was conducted with a view to ascertain:

- the extent of accumulated arrears and reasons thereof;
- whether the Rules and procedures prescribed in the Acts and Rules for recovery were scrupulously followed;
- the efficiency and effectiveness of the system to collect the arrears of tax; and
- whether adequate internal control and monitoring mechanism existed for prompt realisation of arrears of revenue.

2.9.4 Audit criteria

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

State Laws

- Rajasthan Sales Tax Act, 1954/1994;
- Rajasthan Sales Tax Rules, 1955/1995;
- Rajasthan Value Added Tax Act, 2003;
- Rajasthan Value Added Tax Rules, 2006.

Central Laws

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

2.9.5 Scope and Methodology of Performance Audit

During the period 2007-08 to 2011-12, receipts of the Department increased from ₹ 7,750.73 crore to ₹ 15,766.43 crore (103 *per cent*). However, during the same period, the tax arrears also increased from ₹ 2,996.96 crore to ₹ 4,838.04 crore. A Performance Audit on recovery of arrears was, therefore, conducted between April 2012 and May 2013 with a view to examine the reasons for accumulation of the arrears of tax and non-recovery thereof by the Department.

Records of 14 circles[1] along with office of the CCT covering the period from 2007-08 to 2011-12 were selected for detailed audit scrutiny. One circle from each zone was selected to represent the arrear position of the whole geographical area of the State. In addition to above, Circle Special-III, Jaipur and office of DC (Appeal) Jaipur-I were selected for pilot study, whose findings have also been included. There were 51,809 cases of arrears in selected circles and wards out of which 4,389 cases were selected for audit on risk basis. The Department produced records pertaining to 3,801 cases which were examined, 566 files were not produced and 22 files were stated to be with legal cell.

An Entry Conference was held on 25 October 2012 with CCT and Deputy Secretary (Tax), Finance Department wherein scope, methodology and objectives of the Performance Audit were explained. The Factual Statement was forwarded to the Government and the Commissioner in August 2013. An Exit Conference was held on 24 October 2013 with Commissioner, Commercial Taxes and Secretary, Finance (Revenue) Department wherein the findings of the Performance Audit were discussed. The replies received during the Exit Conference and at other points of time have been appropriately considered and incorporated in the relevant paragraphs.

2.9.6 Acknowledgement

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

2.9.7 Position of arrears

2.9.7.1 As per the information furnished by the Department arrears aggregating to ₹ 4,838.04 crore were pending for recovery as on 31 March 2012.

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[1] Circles:B-Bharatpur, B-Bhiwadi, A-Jaipur, B-Jaipur, E-Jaipur, Special-II Jodhpur, Jhunjhunu, B-Kota, Makrana,Rajsamand, Sirohi, Special Sriganganagar, B-Udaipur and Anti-Evasion-II Rajasthan Jaipur.

The year wise position of arrears for the period from 2007-08 to 2011-12 is given in following table.

(₹ in crore)

Year	Arrears at the beginning of the year	Additions during the year	Recoveries/ adjustments during the year	Percentage of recoveries [Column (4) to (2)]	Arrears of revenue at the end of the year
(1)	(2)	(3)	(4)	(5)	(6)
2007-08	2,665.48	1,471.21	1,139.73	43	2,996.96
2008-09	2,996.96	1,918.47	1,192.05	40	3,723.38
2009-10	3,723.38	2,105.33	1,250.67	34	4,578.04
2010-11	4,578.04	2,070.25	1,558.35	34	5,089.94
2011-12	5,089.94	1,910.69	2,162.59	42	4,838.04

Source: Furnished by the Commercial Taxes Department.

The receipts of the Department increased from ₹ 7,750.73 crore to ₹ 15,766.43 crore (103 *per cent*) and simultaneously the arrears increased from ₹ 2,996.96 crore to ₹ 4,838.04 crore (61 *per cent*) during the period from 2007-08 to 2011-12. The recovery of arrears was only in the range of 34 to 43 *per cent* of the total recoverable arrears.

2.9.7.2 Age-wise details of pendency of arrears are given below:

(₹ in crore)

Pendency of arrears	Amount	Percentage of arrears
Demand less than one year old	1,757.02	36.32
Demand between 1 and 2 years old	1,217.94	25.17
Demand between 2 and 5 years old	675.40	13.96
Demand between 5 and 10 years old	630.92	13.04
Demand over 10 years old	556.76	11.51
Total	**4,838.04**	**100**

Source: Furnished by the Commercial Taxes Department.

Arrears amounting to ₹ 1,187.68 crore (24.55 *per cent*) were pending for more than five years out of which ₹ 556.76 crore accounting for 11.51 *per cent* were pending for more than ten years. Since the Department had not laid down any norms/targets for disposal of arrears, recovery of such arrears may become increasingly difficult with the passage of time.

The Department in its reply (June 2013) agreed that no targets for recovery of the arrears were fixed by them during the period 2007-08 to 2011-12. However, for the year 2012-13, target for recovery of the arrears was fixed by the CCT for each zone.

Further CCT during Exit Conference stated that the Department had zero tolerance for non-recovery of arrears and that senior level officers had been asked to closely monitor the recovery done by AAs and Junior Commercial Taxes Officers (JCTOs). It was also stated that the Department was taking prompt action for recovering the demand so that it did not lapse into arrear.

2.9.8 Categories of arrears

The Department has classified arrears under 16 categories. The position of the amount pending against each category for financial years ending 31 March 2010, 2011 and 2012 was as under:

(₹ in crore)

Sl. no.	Categories	31 March 2010	31 March 2011	31 March 2012
1	Arrear due to non-verification of ITC/ deposits	1,066.22	1,197.54	527.21
2	Arrear due to non-submission of Declaration (CST/RST/RVAT) forms	876.66	1,262.93	973.91
3	*Ex-parte* assessments	371.53	436.72	468.92
4	Stay under various Courts	420.37	598.80	956.98
5	Untraceable dealers	269.36	323.36	331.16
6	Arrears recongnised by the Department as recoverable	368.09	548.57	664.91
7	Demands against dealers whose units are under BIFR	137.4	153.21	119.59
8	Prosecution cases where no stay has been granted	89.61	91.75	94.77
9	Recoveries under RR Act	80.52	85.11	32.28
10	Demands against dealers whose units are under liquidation	72.37	74.02	76.26
11	Arrear demands to be Written-off	43.06	60.95	68.83
12	Recoveries under LR Act	32.35	55.71	127.75
13	Instalments to be paid by the dealers against outstanding demands fixed by the Department/ Appellate Authorities/ Courts	53.51	42.01	39.75
14	Demands outstanding against Government Department	13.83	20.52	13.65
15	Demands against dealers whose units have been declared as 'Sick Unit'	6.68	6.62	4.45
16	Others	676.48	132.12	337.62
	Total	**4,578.04**	**5,089.94**	**4,838.04**

Source: Furnished by the Commercial Taxes Department.

The arrears locked up under the categories Verification of ITC /Deposit (Sl.No.1), Declaration forms (Sl.No.2), *ex-parte* assessments (Sl.No.3) and Recoverable by the Department (Sl.No.6) amounting to ₹ 2,634.95 crore or

54 *per cent* of arrears as on 31 March 2012 were yet to be recovered despite the fact that such arrears were against active dealers. The arrears against non-traceable dealers also increased to ₹ 331.16 crore in 2011-12 as against ₹ 269.36 crore in 2009-10. The Department was also slow in taking action on matters where the arrears were to be written off as these remained pending with the CCT office and the amount of such arrears had increased from ₹ 43.06 crore as on 31 March 2010 to ₹ 68.83 crore as on 31 March 2012. Further, a major portion of arrears involving ₹ 956.98 crore or 20 *per cent* of total amount of arrears pertained to cases pending with DC (Appeal), Rajasthan Tax Board or Rajasthan High Court/Supreme Court.

During Exit Conference, CCT stated that recovery of arrears had assumed top priority. He further stated that AAs have been directed to monitor old demands both age-wise and amount-wise. Regarding court cases, instructions were being issued to file applications for early hearing.

The audit findings are discussed in succeeding paragraphs.

2.9.9 Deficient mechanism for recovery of demands

2.9.9.1 Non-maintenance of control registers

As per circular dated 3 January 2008 where any demand of tax, penalty and interest against the dealer is created, it is entered in the DCR and a note to this effect is made in returns and tax payment register. The AA monitors the progress of assessment work and collection through DCR. It was noticed that DCR was being maintained in all selected circles.

However, the Department had not prescribed separate control registers for monitoring the progress made in recovery of arrears i.e. for issue of demand notices, details of movable and immovable property of the dealer, stay register, register of companies under liquidation, Board for Industrial and Financial Reconstruction (BIFR) and sick companies etc. In absence of these separate registers, the correctness of the arrears, their timely monitoring and action taken for recovery of the amount could not be ascertained.

2.9.9.2 Lack of Internal Control Mechanism

A statistical return in the form of Demi-Official (DO) letter was prescribed vide which each AA had to submit monthly progress of collection and balance of arrear demands to CCT through DCs (Administration) of the concerned zone.

It was noticed that the DO letters did not contain the year wise detail of the arrears that was pending in the circle for more than five years. As such the year wise action taken for recovery of old arrears could not be monitored. The DO letters also did not reflect the name of defaulting dealers having highest arrears of tax against them and their pendency period. Further, monitoring of recovery of arrears at CTO/DC level was restricted to reporting through monthly DO letters.

Scrutiny of records of selected circles disclosed that regular meetings were not held with AAs by the DCs to monitor the progress of recovery.

The Secretary (Revenue) during Exit Conference in reference to paragraph 2.9.9.1 and 2.9.9.2 suggested that a module 'Management Information System' (MIS) should be introduced in the Department to provide separate exception reporting of recovery cases. It would help the AAs to take prompt action. Further action taken has not been intimated (February 2014).

2.9.9.3 Absence of specific time frame for initiation of recovery proceedings

It was noticed (August 2013) that no time frame was prescribed in the RVAT Act, 2003 or RVAT Rules, 2006 or by the CCT (by issue of notification/ circular/office order) to ensure initiation of recovery proceedings by the specified time i.e. for issue of notices for recovery, attachment of bank accounts, recovery from surety, tracing movable and immovable property, attachment of such property and auction thereof etc. A few cases of non-initiation of action under RLR Act are discussed in para no. 2.9.10.

The Department replied (October 2013) that no specific time frame can be prescribed as there were different types of arrear cases. The recovery in respect of the cases having outstanding amount of more than one crore is being watched at Headquarters and information regarding their recovery is being called monthly and directions are accordingly given for their recovery.

The reply is not acceptable as specific time frame can be prescribed for all types of cases once these are declared as arrears as this would help in timely recovery of amounts due to Government.

2.9.10 Non-execution of warrant of attachment and non-auction of properties

Section 52 of RST Act and Section 49 of the RVAT Act, 2003 read with Rule 27 of RST Rules and Rule 24 of RVAT Rules, 2006 provides that where any tax or other sum payable by a dealer or a person is recoverable as an arrear of land revenue under the provisions of Section 228 to 257 of the RLR Act, 1956, the AA or any other authority authorised by the CCT is empowered to recover such tax or other sum by attachment and sale of movable or immovable property of such dealer or person.

Scrutiny of records of two circles (Jhunjhunu and B Bharatpur), disclosed that though the Land Revenue authorities had provided property details in four cases involving non-recovery of demand of ₹ 69.01 lakh, the AAs issued the warrant of attachment of property with delay ranging from 8 to 36 months. Further, in one case, the warrant of attachment of property was not executed defeating the very pupose of prompt recovery.

It was noticed (February and May 2013) that no monitoring was done by the AAs to ensure that the JCTOs had taken adequate action for attachment of property of defaulting dealers. In a few cases where the property could be attached by the Department, the AAs failed to auction them as discussed in following paragraphs.

2.9.10.1 During scrutiny of recovery files of CTO, Circle Jhunjhunu, it was noticed (May 2013) that demands of ₹ 26.33 lakh were raised (March 2000) and pending against M/s Manoj Trading Company, Pilani for the period 1988-89, 1989-90 and 1994-95. The Department identified (February 2003) a joint property of the dealer in Chirawa *Tehsil*. The AA issued the warrant of attachment of property in March 2003. It was noticed that the AA directed (April 2003) the CTI to attach the property. However, the CTI on each occasion asked (May 2003 to October 2009) for further extension for attachment of property. No further correspondence was found in the recovery file.

The Government replied (February 2014) that demands of ₹ 26.27 lakh for the year 1988-89 and 1989-90 were set aside by DC (Appeal) Bikaner in November 2005 and demand of ₹ 0.06 lakh for the year 1994-95 was recoverable. The reply is not acceptable as the Department had shown the amount as recoverable in their records and warrant of attachment of property was issued in August 2009 for recovering the demands of ₹ 26.33 lakh.

2.9.10.2 During scrutiny of recovery files of CTO, Circle Jhunjhunu, it was noticed (May 2013) that the AA had attached immovable property (factory and machinery) of M/s Surajgarh Chemicals & Fertilisers Pvt. Ltd, Surajgarh in May 2002 against a demand of ₹ 14.28 lakh raised (August 2002) for the period 1992 to 1999. The AA issued numbers of notices for auction of factory and machinery between May 2002 and February 2013 but failed to attract any bidders.

The Government replied (February 2014) that ₹ 8.66 lakh had been recovered in October 2013 and the dealer has applied to CCT for waiver of remaining demand.

2.9.10.3 During scrutiny of recovery files of AC, Circle-B Bharatpur, it was noticed (February 2013) that the AA had attached (April 1996) immoveable property of M/s Shankarlal Omprakash, Bharatpur against a demand of ₹ 23.82 lakh for the period 1994-95. Though the AA held repeated auctions for the attached property between August 1996 and September 2011, no bidder participated in the auction proceedings. No action was found to have been taken after September 2011.

The Government accepted (February 2014) the facts and stated that auction could not take place as no bidders participated in the auction process.

2.9.10.4 During scrutiny of recovery files of CTO, Circle Jhunjhunu, it was noticed (May 2013) that the AA attached immovable property of M/s Jeevanram Birbalram, against a demand of ₹ 4.58 lakh raised in March 1994 for the period 1988 to 1990. The AA held repeated auctions of the property between February 1996 and July 2010 but the property could not be sold. No further correspondence was found in the recovery file.

The Government stated (February 2014) that despite adequate publicity, the property could not be auctioned. The reply also stated that next auction date for sale of property has been fixed for 13 February 2014.

The Department even after lapse of considerable time failed to recover arrears from dealers whose properties were identified and attached.

Despite repeated failure of the Department in auctioning of the attached property, no system was evolved to identify the reasons or deficiencies behind such failure. An appropriate system of auction has to be developed to ensure revenue realisation.

The CCT during Exit Conference stated that cases pending under LR Act were being regularly pursued and instructions would again be issued to speed up progress in finalisation of the above cases.

2.9.11 Non-recovery of arrears from untraceable dealers

There is no provision in the Act or Rules for obtaining information regarding movable and immovable property of the dealers and their sureties at the time of registration. As such the Department had not maintained any records regarding the movable and immovable property of the dealers and their sureties to recover the arrears under RLR Act. As a result, the Department could not trace the dealers or property of the dealers who defaulted from the payment of tax due. It was noticed that the AAs did not take prompt action on default in six cases but kept on issuing assessment orders on *ex-parte* basis for two to three years and thereafter did not make any efforts to trace the dealers through the JCTOs. However, by then, the dealers had closed their businesses.

As per the information furnished by the Department, ₹ 331.16 crore were outstanding against the dealers whose whereabouts were not available with the Department. A few of these cases involving arrears liability of ₹ 5.43 crore are discussed in the following paragraphs.

2.9.11.1 During test check of recovery files of AC, Circle B, Jaipur, it was noticed (December 2012 and August 2013) that a dealer M/s Subhiksha Trading Services Ltd, Jaipur was registered in May 2007 and assessed (March 2010 and January 2011) with a demand of ₹ 1.03 crore for the period 2007-08 and 2008-09. The dealer did not deposit the demand and the demand notices were returned unserved. The JCTO reported (June 2011) that the firm was not existing at the given address and that no information was available regarding Manager's residence.

The AA could not trace any movable and immovable property of the dealer. The dealer was thereafter categorised as untraceable. No further efforts under RLR Act, were found to have been taken to trace whereabouts of the dealer. This resulted in loss of recoverable arrear of ₹ 1.03 crore including penalty of ₹ 0.67 lakh.

Scrutiny of the file further disclosed that the dealer had become a defaulter in the year of registration (2007) itself. Had the AA taken prompt action in the first year of default, the accumulation of arrears could have been avoided.

The Department replied (December 2013) that demand of ₹ 47.34 lakh was reduced after verification of Input Tax Credit (ITC). The Government replied (February 2014) that notices had been issued to the directors.

2.9.11.2 During test check of recovery files of AC, Circle B, Kota, it was noticed (May 2012 and August 2013) that a dealer M/s Arvind Traders, Kota had not deposited the demand of ₹ 3.37 crore assessed for the period 2001-02 and 2002-03. The demand notices were returned unserved (July 2004). The AA directed (March 2008) the JCTO to enquire about the whereabouts of the dealer and his property. The JCTO reported (February 2009) that the dealer had closed his business four years back and was untraceable. No further action was taken to trace the sureties or the properties of the dealer.

The Government replied (February 2014) that amount of ₹ 0.55 lakh had been recovered from sureties and National Savings Certificate.

2.9.11.3 During test check of recovery files of AC, Circle-A, Jaipur, it was noticed (April 2012 and August 2013) that a dealer M/s S Roberts Pharmaceuticals, Jaipur was in arrears of ₹ 22.86 lakh for the period 2002 to 2005 and assessed between March 2005 and March 2007. The AA issued notices for recovery in July and August 2012. However, these were returned unserved. The AA could not trace either the dealer or his property. The AA also failed to trace the whereabouts of the sureties. Thereafter, the dealer was declared as untraceable.

The Government replied (February 2014) that notices for recovery were being issued to the sureties.

2.9.11.4 During test check of recovery files of AC, Circle-A, Jaipur, it was noticed (August 2013) that a dealer M/s Almizan Leather Private Limited, Jaipur was in arrears of ₹ 11.97 lakh for the period 1985 to 1988. Scrutiny of file disclosed that the AA wrote (April 1992, July 1994 and May 2013) to the Collector, Jaipur for pursuing recovery under RR Act, 1890 through Collector, Chennai as property of the dealer was situated in Chennai. The AA made correspondence only thrice in twenty years with the Collector, Jaipur. However, no recovery could be made. The dealer was thereafter declared untraceable.

The Government replied (February 2014) that further progress would be intimated shortly.

2.9.11.5 During test check of recovery files of AC, Circle-Special, Sriganganagar, it was noticed (August 2013) that a dealer M/s Roshanlal Rajeshkumar, Sadulshahar was in arrears of ₹2.97 lakh for the period 2002-03 and 2003-04. The Commercial Taxes Inspector (CTI) reported (January 2004 and March 2006) that the dealer had closed his business in May 2003 and that all partners of the firm had become insolvent and untraceable. The AA issued (December 2005) notices to the sureties and recovered ₹ 0.10 lakh from one surety. However, no recovery could be made from the dealer as no property of the dealer could be identified. Thereafter, the AA asked (August 2011 and February 2013) the CTO, Hanumangarh for encashment of National Savings Certificate and surety bonds as the registration certificate was issued by that

office. However, no response was received from CTO, Hanumangarh till March 2013.

The Government replied (February 2014) that efforts were being made through LR authorities to trace out the property of the dealer.

2.9.11.6 During test check of assessment files of CTO, Circle-B, Udaipur, it was noticed (February 2013) that M/s C K Daftari & Associates, Udaipur, was in arrears of ₹ 65.35 lakh as per assessment orders (February 2010) for the period 2001 to 2003. Scrutiny disclosed that only two notices were issued (March 2010) to the dealer for depositing the demands after the assessment. The dealer had not deposited the due tax as a result of which demand of ₹ 65.35 lakh along with interest remained unrecovered. The Department replied (October 2013) that the dealer had closed his business and was categorised as untraceable.

As stated earlier, the AAs were not prompt in taking action for recovery of demand. The Department was not having a mechanism to regularly check the status of dealers and their sureties after the registration certificate was issued. The property details of the dealers were also not available with the Department.

The Department replied (October 2013) that efforts to trace out the whereabouts of the dealers were being made. The Government replied (February 2014) that notices were again issued to the partners and sureties.

However, in absence of any details of the defaulting/absconding dealers the chances of recovery of amounts due to Government appear remote.

2.9.12 Non-recovery of arrears pending against dealers assessed on *ex-parte* basis

Section 26 of RST Act read with Rule 19 of RST Rules and Section 21 of RVAT Act read with Rule 19 of RVAT Rules, provides time and manner of furnishing of return by registered dealer and Sections 27 and 29 of RST Act and Sections 22 and 24 of RVAT Act, provide for assessment of tax to the best judgment of the AA. Section 38 of RST Act and Section 34 of RVAT Act, provides that where an assessment has been made *ex-parte* (best judgment), on application of the dealer, the DC (Administration) may by an order direct the AA to cancel the assessment and proceed to make a fresh assessment.

During test check of records of 13 Circles[2] it was observed that in 259 cases pertaining to the period 1977-78 to 2009-10, the dealers had either not submitted returns up to the date of assessment or had not appeared during the assessment proceedings on scheduled dates. Assessment orders of these dealers were passed by the AAs and demand of ₹ 49.44 crore was raised. It was noticed that these

[2] Circles: B-Bharatpur, B-Bhiwadi, A-Jaipur, B Jaipur, E-Jaipur, Special-II Jodhpur, Jhunjhunu, B-Kota, Makrana, Rajsamand, Sirohi, B-Udaipur and Anti-Evasion-II Rajasthan Jaipur.

dealers had not applied for reopening the said assessment orders but the AAs did not initiate effective action for recovery against these dealers under the Act which resulted in non-recovery of demand of ₹ 49.44 crore and interest of ₹ 37.81 crore (up to March 2013).

It was further noticed that most of the cases falling under this category were pertaining to those dealers, who had closed down their establishments. Since chances of recovery from such cases are remote, these cases should have been decided on actual sales/turnover basis instead of adopting the estimated turnover of the assessees. Further, the chances for raising inflated demand in these cases cannot be ruled out.

Out of the above 259 cases, it was noticed that in 181 cases demand notices were not served. In the remaining 78 cases demand notices were served to the dealers. Out of these, the writs of demands were served in 28 cases and warrants of attachment of properties were issued in 11 cases.

The details of six *ex-parte* assessment cases involving arrears of ₹ 24.01 crore along with interest of ₹ 16.31 crore (up to March 2013) pertaining to two circles are discussed in the succeeding paragraphs.

2.9.12.1 During test check of recovery files of AC, Circle-B, Bhiwadi, it was noticed (May 2013) that a RC was issued in January 2006 to M/s Shiva Enterprises, Bhiwadi which was cancelled in March 2006. Scrutiny of the assessment file disclosed that despite being given several opportunities to produce book of accounts and other relevant information, the dealer failed to appear before the AA for which *ex-parte* proceedings were initiated and a demand of ₹ 2.63 crore was raised (June 2006) for the period 2005-06. The demand notice was affixed (June 2006) at his business premises. However, the dealer did not deposit the demand. No further progress was available on records. As a result, tax of ₹ 2.63 crore and interest of ₹ 2.10 crore (up to March 2013) remained unrecovered.

The Government replied (October 2013) that action for recovery had been initiated under RR Act through the Collector, Delhi (West). The Government further replied (February 2014) that an amount of ₹ 0.34 lakh had been recovered by encashment of National Savings Certificate.

2.9.12.2 During test check of recovery files of AC, Circle-B, Bhiwadi, it was noticed (May 2013) that M/s Yucon Sales Corporation, Bhiwadi was registered on 22 August 2003 and RC was cancelled with effect from 31 March 2006. Despite being given several opportunities to produce book of accounts and other relevant information such as purchase details, invoices etc, the dealer merely submitted F forms in support of transfer of goods which were rejected by the AA. *Ex-parte* proceedings were initiated when the dealer did not appear before the AA even after repeated reminders and demands of ₹ 3.18 crore were raised (June 2006 and March 2008) against the dealer for the period 2003-04 to 2005-06. However, the dealer did not deposit the demand. The CTI reported (January 2006) that the dealer had closed (November 2005) his business and his whereabouts were not known. Scrutiny of file disclosed that the address given by the dealer at the time of registration was of Delhi but no demand notices were served on Delhi address of the dealer as mentioned in

the RC. The demand of ₹ 3.18 crore and interest of ₹ 2.21 crore (up to March 2013) were thus pending recovery.

The Government replied (February 2014) that an amount of ₹ 0.37 lakh had been recovered by encashment of National Savings Certificate.

2.9.12.3 During test check of recovery files of AC, Circle Anti-Evasion-II, Rajasthan, Jaipur it was noticed (January 2013) that assessment of M/s R K Glass, Jaipur for the period 2004-05 was finalised by AA (March 2007) on *ex- parte* basis as the dealer failed to produce books of accounts and other relevant records and also failed to present himself on the dates fixed for hearing. A demand of ₹ 1.40 crore was consequently raised and demand notice was issued (March 2007). However, the dealer did not deposit the tax amount. No further correspondence was found in the file except the report of JCTO wherein he reported (February 2012) that the dealer had closed his business four to five years back and that no property of the dealer could be identified. No further progress was available in the file. Had prompt action been taken to recover the tax amount soon after finalisation of the demand, recovery could have been made. Non-initiation of timely action for recovering the demand resulted in accumulation of arrears of ₹ 2.39 crore including interest of ₹ 99.13 lakh up to March 2013.

The Government replied (February 2014) that efforts were being made to trace out the property of the dealer.

2.9.12.4 During test check of recovery files of AC, Circle Anti-Evasion-II, Rajasthan, Jaipur, it was noticed (January 2013) that assessments of M/s Rampratap Bhanwar Lal for the period from 2000-01 to 2006-07 were finalised on *ex-parte* basis between March 2007 and June 2010 as the dealer failed to produce requisite records/documents on various opportunities offered to him and also remained absent on the date of final hearing. An aggregate liability of ₹ 11.59 crore was created against him for the period from 2000-01 to 2006-07, which included ₹ 7.31 crore of taxes and ₹ 4.28 crore of interest (up to March 2013). It was noticed that demand was created on the basis of details collected from the purchasers who had dealt with the dealer.

A few notices were issued in the years 2007 and 2008 but the dealer did not deposit any amount against the demand. Thereafter, no notices were issued except in August 2012 but the dealer refused to acknowledge the same. The AA also made efforts through the CTO, Circle A, Ajmer, who reported (August 2012) that the dealer had closed his business and was not acknowledging the notices. It was also found from the departmental order sheet (September 2012) that the dealer once expressed his interest to take up the matter in Tax Settlement Board but no action was found on record to have been taken by the Department.

The Department had unnecessarily taken a very long time to finalise the assessments. Had assessments been made on timely basis, when the business of dealer was running, the demands could have been recovered.

The Government reiterated (February 2014) its earlier reply given in October 2013 that warrant of attachment of property of dealer had been sent (October 2012) to DC (Administration), Ajmer for recovery.

2.9.12.5 During test check of recovery files of AC, Circle Anti-Evasion-II, Rajasthan, Jaipur, it was noticed (January 2013) that five *ex-parte* assessments of M/s Ramesh and Company, Ajmer pertaining to the period from 2001-02 to 2005-06 were finalised (between March 2007 and March 2008) as the dealer failed to produce required documents or present himself on the last date of hearing. An aggregate demand of ₹ 6.74 crore on account of taxes, penalty and interest etc. was raised by the AA. Further, interest on demand was also payable up to the date of actual payment. Audit observed that interest of ₹ 4.50 crore (up to March 2013) became payable on this demand from the date of passing of Assessment order. Thus, an amount of ₹ 11.24 crore was recoverable from the dealer.

It was noticed that a survey was conducted (September 2005) on the business premises of the dealer on apprehension of concealment of saleable turnover and some records were confiscated. It took almost two years in finalisation (March 2007) of assessments of the dealer after the survey, despite the fact that assessments were pending for finalisation since 2001-02. Further, no concrete steps were taken by the AA to ensure recovery except for issuing notices. The JCTO reported (June 2011) that the business had been closed by the assessee.

Had prompt action been taken to finalise the assessment cases soon after the survey, the demand could have been recovered from the dealer during the period when business of the dealer was in existence. The chances of recovery are remote.

The Government replied (February 2014) that information regarding recovery was being called for from Income Tax Department and Registrar of Firms. The warrant of attachment of property of dealer was also sent (October 2012) to DC (Administration), Ajmer for recovery.

2.9.12.6 During test check of recovery files of AC, Circle-B, Bhiwadi, it was noticed (May 2013) that the CTI in his report (May 2005) informed that the dealer M/s Sunshine Trading Company, Bhiwadi had closed his business. The AA cancelled the RC and passed *ex-parte* assessment (May 2006) for the period 2003-04 and 2004-05 on the basis of returns for second and third quarter of the period 2003-04. In absence of any details for the year 2004-05, the AA considered turnover to be 20 *per cent* more than the previous year. The dealer had not deposited any tax during the entire period. A demand of ₹ 2.75 crore was raised and demand notice was affixed at his business premises. No further correspondence was found in the file except a letter of AA (June 2010) to the AC, Circle Special Udaipur alerting the circle regarding the dealer. No further progress was found on record. Thus, a recoverable demand of ₹ 2.75 crore and interest of ₹ 2.23 crore (up to March 2013) were pending.

The Government replied (February 2014) that an amount of ₹ 0.37 lakh had been recovered from NSCs and District Collector, Bulandsahar had been requested to recover the arrear under RR Act.

It was seen that the AAs did not monitor submission of returns which resulted in delay in assessments. By the time the CTI/JCTO reported on the status of the dealers, they had closed their businesses. The *ex-parte* assessments were passed but recovery chances were bleak.

The CCT during Exit Conference stated that AAs were asked to closely monitor the submission of the required returns on time to avoid *ex-parte* assessment. He also stated regarding *ex-parte* cases that AAs were being asked to reopen the cases and re-examine the demand.

The Government replied (October 2013) that demands of ₹ 62.34 lakh had been recovered in 17 cases and efforts were being made for recovery in the remaining cases.

2.9.13 Non-recovery of arrears from tax collection contractors

As per Section 79 of RST Act, 1994 and Section 77 of RVAT Act, 2003, the Commissioner may, permit a contractor to collect tax at the rates as may be notified from time to time. Rule 44 (i) of RVAT Rules provides that the contractor shall deposit the entire tax collected or the 1/52nd part of the annual tax revenue, whichever is higher, on every Monday. Where the contractor fails to deposit such amount in the above manner, AA shall proceed to recover such amount as if such amount was a demand of tax under the Act. Further, a requirement which existed during erstwhile RST regime for furnishing a status certificate regarding holding property equivalent to 25 *per cent* of the contract value certified by competent LR officer has been dispensed with. Further, as per Rule 44 (j) if the contractor violates any condition, the contract shall be liable to be cancelled by the CCT after affording opportunity of being heard to the contractor.

During scrutiny of records of selected circles, it was noticed that contractors engaged in collection of tax at check posts did not deposit the due amount on prescribed dates and the Department did not take prompt action to recover the tax. It was further noticed that contracts of these contractors were also not cancelled on time. This resulted in accumulation of arrears amounting to ₹ 5.11 crore in eight cases in four Circles[3], as discussed below:

2.9.13.1 On scrutiny of records of CTO, Circle-B Udaipur, it was noticed (March 2013) that M/s Jaswant Singh and Party, Jodhpur was awarded (July 2000) a contract for collection of tax on *bazri* in revenue *Tehsils* Mavali, Vallabhnagar, Salumber and Girwa, Udaipur District for the period from 16 July 2000 to 15 July 2002 for ₹ 1.07 crore for the first year and ₹ 1.18 crore for the second year. The contractor deposited ₹ 1.03 crore with delays at various stages during the contract period. The AA passed (March 2002 and September 2002) assessment orders for the contract period and raised a demand of ₹ 1.41 crore (including interest of ₹ 0.19 crore). Thereafter, ₹ 0.38 crore was recovered/adjusted and ₹ 1.03 crore was in arrears as on May 2005. The contractor filed an appeal in the Hon'ble Rajasthan High Court which directed (August 2004) the CCT to decide the controversy expeditiously. It was noticed that the Department fixed 12 hearing dates between May 2005

[3] Circles: B-Bhiwadi, B-Kota, Makrana and B-Udaipur.

and September 2011 but the contractor did not appear on any of the dates. As the case is more than 10 years old, the recovery of ₹ 1.03 crore and interest thereon appears remote.

The Government replied (February 2014) that further action was being taken.

2.9.13.2 On scrutiny of records of CTO, Circle-B Udaipur, it was noticed (March 2013) that Shri Jaj Sahab was awarded (June 2000) a contract for collection of tax on *bazri* in revenue *Tehsil* Sarada, Udaipur District for the period 1 July 2000 to 30 June 2002 for ₹ 8.00 lakh for the first year and ₹ 8.81 lakh for the second year. The monthly tax collection instalment was fixed at ₹ 70,044. However, during the period July 2000 to March 2001 the contractor deposited different amount of taxes every month, which was less than the prescribed instalment. The AA passed (October 2002) assessment order and raised a demand of ₹ 14.87 lakh (including interest of ₹ 2.90 lakh) after adjusting recovered amount of ₹ 4.84 lakh. The AA issued attachment warrants between March and October 2003 on the properties of the contractor and surety at their Dholpur addresses through CTO Circle, Dholpur. Further, the AA issued a writ of demand (August 2009) to surety and contractor. However, no response was received and no further efforts were made by the AA for recovering ₹ 14.87 lakh and interest thereon.

The Government replied (February 2014) that an amount of ₹ 1.40 lakh had been recovered from Bank guarantee.

2.9.13.3 In another case of CTO, Circle-B Udaipur, it was noticed (March 2013) that M/s Ganpat Singh Abhay Singh, Bhilwara, was awarded (September 2000) a contract for collection of tax on livestock in revenue *Tehsils* of Kherwara, Kotada and Jhallara, Udaipur District for the period 18 October 2000 to 17 October 2001. The contract was further extended for a period up to 17 January 2002 for ₹ 94.39 lakh. The contractor deposited the amount with a delay because of which the AA raised (August 2002) demand for interest of ₹ 6.69 lakh. It was noticed that no efforts were made by the AA to recover the interest amount as the first notice was issued (July 2009) to the contractor and sureties after lapse of seven years. A writ of demand was issued to the Contractor and the surety in August 2009 under RLR Act. Thereafter, no further action was taken. This resulted in non-recovery of demand of ₹ 6.69 lakh and interest thereon.

The Government replied (February 2014) that a notice had been issued in January 2014.

2.9.13.4 In yet another case of CTO, Circle-B Udaipur, it was noticed (March 2013) that M/s Mewar Associate, Udaipur was awarded a contract for collection of tax on *cheja* stone for the period 28 December 2002 to 27 December 2003 for ₹ 60.10 lakh. Thereafter, the contract was further extended for two months. As per the conditions of the contract, the contractor was to deposit ₹ 4.29 lakh as advance tax on 28th of each month. However, the contractor did not deposit any amount of tax for the extended period. The AA passed (January and April 2004) assessment order for extended period and raised a demand of ₹ 9.96 lakh (including interest and penalty of ₹ 1.38 lakh). Thereafter, demand of ₹ 3.36 lakh was adjusted and ₹ 6.60 lakh was pending for recovery. The AA issued notices for attachment (August 2009) to surety

and contractor. However, no further action to recover the arrear was found in the file.

The Government replied (February 2014) that a notice had been issued to the partner in December 2013.

2.9.13.5 During scrutiny of records of AC, Circle-B Kota, it was noticed (May 2013) that M/s Afasar Ali & Party was awarded (March 2002) a contract for ₹ 85.79 lakh for collection of tax on masonry stone for the period 18 March 2002 to 17 March 2003 for check post to be operated at Anantpura, Jagpura, Retia Chowki, Lakhava and Gobaria Bawadi in Kota District. The contract period was further extended up to 13 May 2004. The contractor was assessed in April 2004. There was an arrear of ₹ 25.97 lakh against the contractor after forfeiting the bank guarantee and encashing the national savings certificate. For recovery of pending demands, the AA initiated proceedings under RLR Act. However, the assets of the firm could not be auctioned because the title of the assets was not on his name. The Department lodged (August 2004) a first information report against the firm. No further progress was found for recovery of ₹ 25.97 lakh.

Had the AA verified the genuineness of the documents presented by the firm before award of contract, the Department could have recovered this amount. The Government replied (February 2014) that notices had been issued to the partners in January 2014.

2.9.13.6 On scrutiny of records of AC, Circle-B Bhiwadi, it was noticed (April 2013) that a contract was awarded (July 2009) to Shri Netram to collect tax on iron scrap and non-ferrous scrap from 12 August 2009 to 11 August 2010 at revenue *Tehsil*, Tijara with Annual Tax Revenue (ATR) of ₹ 5.77 crore. The contractor did not deposit the tax as required. The CCT issued a notice for cancellation of the contract on 23 October 2009, against which the contractor obtained stay by the single bench of Rajasthan High Court and thereafter by double bench. The stay was vacated on 2 April 2010. The Assessment order for total contract period was passed (November 2010) after adjusting ₹ 2.23 crore bank guarantee, fixed deposit, tax paid by the contractor and net demand of ₹ 4.21 crore (including interest of ₹ 0.67 crore) was raised. Thereafter, ₹ 1.20 crore was recovered from sureties and collection charges due to contractor. Hence, a demand of ₹ 3.01 crore was outstanding against the contractor.

Scrutiny of assessment file disclosed that Department did not issue any further demand notices for two years. It was also noticed that the details of the immovable property were not mentioned by the contractor in the application form for the contract though provided in the Tender form prescribed by the Department. In October 2012, the AA instructed JCTO to trace the movable and immovable properties of the contractor. However, further progress was not found in the recovery file.

The Department granted high value contract to a contractor who had no immovable assets. The terms and condition of contract also did not mandatorily ask for property details.

The Government replied (February 2014) that the District Collector had been requested to recover the arrear under RR Act.

2.9.13.7 In another case of AC, Circle-B Bhiwadi, a contract to collect tax on bricks in Tijara *Tehsil* was awarded (December 2008) to Shri Vinod Tanwar for a period from 24 December 2008 to 23 December 2010 at ₹ 50 lakh in the first year and ₹ 55 lakh for second year. The AA passed (February 2011) assessment order for the above period and raised a demand of ₹ 65.17 lakh (including interest of ₹ 9.09 lakh) against the contractor after adjusting amount of ₹ 48.92 lakh. Thereafter, ₹ 4.17 lakh were recovered from one surety and ₹ 14.85 lakh were adjusted against collection charges due to the contractor and hence a demand of ₹ 46.15 lakh was in arrears. The Department could not recover surety amount from other surety though the warrant of attachment (December 2010) was issued and served (August 2012).

It was noticed that property details of the contractor and copy of warrant of attachment issued to him were not found in the recovery file though a copy of letter by the AA directing (April 2012) the JCTO to ensure execution of warrant of attachment issued to the contractor was available.

The Government replied (February 2014) that LR Authorities had been requested to put an embargo on sale of the property of the contractor.

2.9.13.8 During test check of the recovery files of CTO, Circle Makrana, it was noticed (April 2013) that Shri Jai Singh, Nawa, was awarded (May 2009) a contract for the period from 6 June 2009 to 5 June 2010 at ₹ 56 lakh for collection of tax on *cheja* stone and *bazri* in *Tehsil* Nawa and Makrana. The contractor did not deposit any tax during 6 June 2009 to 1 September 2009 and requested (1 September 2009) the CCT to cancel the contract which was accepted (18 September 2009). The AA passed (January 2010) assessment order for the whole period (6 June 2009 to 5 June 2010) and raised demand of ₹ 56 lakh against the contractor. The demand notice was served to contractor (January 2010). The notices for attachment of property were issued (April and August 2011). The contractor did not deposit the demand with the consequence that the AA forfeited bank guarantee amounting to ₹ 9.34 lakh. Thereafter, the AA issued recovery notices to the contractor in February 2012 by post and another notice was served by hand in August 2012. Notice issued in March 2013 returned with remarks that contractor was not found at the address.

It was noticed that the AA incorrectly assessed the demand against the contractor by charging full Annual Tax Revenue (ATR) amount instead of proportionate basis though clause 3 of contract condition clearly stated that in case the contractor applies for cancellation of the contract, the contractor would be liable to pay ATR on proportionate basis. Accordingly, the tax liability of the contractor for the period of 6 June 2009 to 18 September 2009 was ₹ 15.96 lakh only against which ₹ 6.62 lakh remains outstanding after adjusting bank guarantee of ₹ 9.34 lakh. The assessment order, therefore, needs to be amended. Further, efforts should be made to trace the contractor and recovery notices should also be issued to the sureties to recover the amount.

The Government replied (February 2014) that stay had been granted on recovery by DC (Appeal) Ajmer in July 2013.

From perusal of the cases stated above it is evident that the Department did not cancel the contracts even after repeated defaults of the contractors both in terms of amount payable and in adherence to the time schedule fixed for payment of tax. This resulted in accumulation of arrears against defaulting contractors. Due to the lackadaisical approach of the AAs and the Department, the contractors took advantage and money rightly due to Government has not been realised.

2.9.14 Non-recovery of recoverable arrears from active dealers

During test check of assessment records of selected circles, it was noticed that recoverable arrears of ₹ 82.42 lakh along with interest was pending against two active dealers of two circles. However, no efforts were made to recover these arrears and the demands remained outstanding for years ranging between three and five years. The details of these cases are discussed below:

2.9.14.1 During test check of assessment files of AC, Circle-A, Jaipur, it was noticed (May 2012) that M/s Honeywell Automation India Ltd, Jaipur was in arrears of tax of ₹ 48.87 lakh for the years 2007-08 and 2008-09 as per assessment orders passed in March 2010 and January 2011 respectively. Scrutiny of files disclosed that no demand notice was issued to the dealer for the demand pertaining to 2008-09. It was also noticed that the dealer was depositing tax for subsequent years. No further progress was available in the records with regard to efforts made for recovery of arrears for both the years. Thus, tax of ₹ 48.87 lakh along with interest was pending recovery from the dealer.

The Government replied (February 2014) that an amount of ₹ 21.47 lakh had been recovered.

2.9.14.2 During test check of assessment files of AC, Circle-B Bhiwadi, it was noticed (May 2013) that M/s Rallison Electricals Pvt Ltd, Bhiwadi was in arrears of demand of ₹ 33.55 lakh for the year 2007-08. The dealer had paid tax on regular basis in subsequent years. It was noticed that no demand notices were found in file with regard to the demand for 2007-08. The demand of ₹ 33.55 lakh along with interest was yet to be recovered.

The Government replied (February 2014) that an amount of ₹ 25.64 lakh had been recovered/adjusted.

2.9.15 Non-recovery under RR Act in cases of dealers owning property in other States

Any sum in respect of defaulting dealers residing outside the State or having property there, is recoverable under the RR Act, 1890. The case is to be intimated by AA to the Collectors of the districts in which the defaulter conducted business. On receipt of the same, the Collector has to send the recovery certificate to the Collector of the district of the other State where the defaulter owns the property or is residing.

During test check of the recovery files of selected circles we noticed that Revenue Recovery Certificates (RRCs) were forwarded by the concerned AAs to the Collectors of the districts for issue to

the revenue authorities of other States for recovery of dues as arrears of land revenue. However, delays in issuing the RRCs and inadequate follow up action by the AAs resulted in non-recovery of ₹ 9.09 crore in 12 cases of four circles. A few of these cases are detailed below:

2.9.15.1 During scrutiny of recovery files of AC, Circle-B Kota, it was noticed (May 2013) that M/s Hisariya Foods, Kota was in arrears of assessed tax of ₹ 3.79 crore for the period 2001 to 2006. The AA issued notices under Section 49 of RVAT Act for attachment of the property of the dealer during September 2008. A letter was issued to CTI in January 2009 for ascertaining assets of the dealer. However, no further action was taken till the AA requested (July 2011) the Collector, Kota for recovery under RR Act from the property of the dealer situated at Sirsa (Haryana). The Collector, Kota asked (July 2011) for submission of the requisition in the prescribed format and with full details of the property of the dealer. Further progress was not available in the recovery file.

The Government replied (February 2014) that an amount of ₹ 0.45 lakh had been recovered from the bank account.

2.9.15.2 During scrutiny of recovery files of AC, Circle Rajsamand, it was noticed (March 2013) that M/s Mahaveer Marketing, Rajsamand was in arrears of assessed tax of ₹ 39.88 lakh for the period 1993 to 1995. However, the AA did not initiate any action for recovery. After a lapse of five years, RRC for recovery by the Collector, Rajsamand was issued to the Collector, Ahmedabad in August 2000, who in his reply intimated (October 2001) that the defaulter was not staying at the given address. The RRC was again issued in February 2007 after a lapse of seven years. Further progress was not available in the recovery records.

The Government replied (February 2014) that an amount of ₹ 0.20 lakh had been recovered from the National Savings Certificate.

2.9.15.3 During scrutiny of recovery files of CTO, Special Circle-III, Jaipur, it was noticed (April 2012) that M/s B R Industries Ltd, Jaipur was in arrears of tax of ₹ 48.28 lakh for the period from 1990-91 to 1996-97. The dealer closed his business and shifted to New Delhi. The AA issued (January 1999) warrant against the dealer and surety for attachment of property. However, the warrant was not served on the dealer and was filed in the recovery file with a remark, 'firm is closed and no information available about dealer's property'. The Department recovered only ₹ 0.10 lakh from the surety. The AA issued letters in March 2006 and November 2011 to the Collector, Jaipur for recovery of pending arrear. No further progress was available in the records.

The Government replied (October 2013) that it had issued letters in March 2012 and May 2013 to the Collector, Jaipur for recovery. The Government further replied (February 2014) that copy of RRC was again sent to the Collector, Jaipur.

2.9.15.4 During scrutiny of the recovery files of ACTO, Ward-I, Circle-A Jaipur, it was noticed (May 2012) that M/s Surya Agro Oil Ltd, Jaipur was in arrears of assessed demand of ₹ 2.58 crore for the period from

1999-2000 to 2001-02. The dealer closed his business and shifted to Bhopal. The RRC for recovery was issued by the Collector, Jaipur to the Collector, Bhopal in September 2004. Thereafter, the AA regularly made correspondence with the Collector, Bhopal up to February 2011 but no information was received. It was further noticed that as per RC, directors and surety of the firm were residing in Rajasthan. The information was available with the Department but no action under Section 49 of the RST Act, was initiated against them by the AA for recovery of arrears.

The Government replied (February 2014) that the Hon'ble High Court of Madhya Pradesh has appointed a receiver to liquidate the assets of the dealer and a letter had been sent to Assistant Commissioner, Sales Tax, Bhopal for further action.

2.9.15.5 On scrutiny of recovery files of ACTO, Ward-III, Circle-A, Jaipur, it was noticed (May 2012) that M/s Motorola Industries Ltd, Jaipur was in arrears of assessed tax of ₹ 89.79 lakh for the period from 1992-93 to 1997-98. The dealer closed his business and shifted to Baroda (Gujarat). On issue (March 2006) of recovery notice to two sureties, it was found that one surety had expired in August 2005 and the other surety was not traceable. Hence, amount could not be recovered from sureties. Thereafter, RRC for recovery was issued (March 2006) by the Collector, Jaipur to the Collector, Baroda. It was noticed that no correspondence was made in this regard for the next five years. The Collector issued a reminder in December 2011. No further progress was available in the records.

The Government replied (February 2014) that Collector, Jaipur had been requested to initiate action under RR Act.

Similarly, seven cases involving arrears of ₹ 94.10 lakh were also found (March 2013 to May 2013) in four circles (Jhunjhunu, Rajsamand, Special-Sri Ganganagar and B-Udaipur).

The Department was not vigilant about recovery of its demands. No efforts were made to trace the whereabouts of dealers promptly after they defaulted. The process of initiating recovery through RR Act was extremely slow. The AAs merely issued letters/reminders to the Collectors and no concerted efforts to follow up was taken by the concerned Collectors.

The CCT during Exit Conference stated that cases pending under RR Act were regularly pursued and instructions would again be issued to speed up progress in these cases.

2.9.16 Arrears due to non-verification of ITC

As per Section 18(2) of RVAT Act, the claim of ITC shall be allowed on the tax deposited on the basis of original VAT invoice within three months from the issuance of such invoice. The CCT instructed (31 August 2009) the AAs to verify ITC as soon as possible or at the maximum within six months from the date of filing of quarterly return. Further, as per Rule 45A of RVAT Rules, if ITC credit is not allowed for want of proper verification of deposits, the assessing authority himself shall get the verification done and shall not enforce the demand to the extent of the amount under adjustment, till such adjustment is allowed or the claim for such ITC is rejected by an order in writing, as the case may be.

As per the information furnished by the Department, ₹ 527.21 crore were outstanding against the dealers for want of due verifications. A few of these cases are discussed below.

During test check of DCR and Assessment files of eight Circles[4] it was noticed that in 48 cases, the AAs had not allowed credit of ITC of ₹ 13.00 crore claimed by the dealers for want of verification report from concerned AAs of selling dealers. It was noticed that these ITC pertained to the period 2006 to 2010 but the AAs were not able to get verification reports till date (February 2014). The Department has now computerised its returns and is able to verify ITC claims online. However, the old ITC claims need to be verified on priority basis so that the matter involving huge revenue may be sorted out.

The Additional Commissioner, Commercial Taxes Department during exit conference stated that a clearance house had been established for verification of ITC claims. He further stated that online filing of returns had been made mandatory for all dealers with effect from April 2012 which would facilitate online verification of ITC.

The Government replied (October 2013) that demands of ₹ 23.31 lakh were verified and adjusted in three cases.

[4] Circles: B-Bharatpur, B-Bhiwadi, B-Jaipur, E-Jaipur, Jhunjhunu, B-Kota, Sirohi and B-Udaipur.

2.9.17 Arrears due to non-verification of deposits

As per Rule 45 of RVAT Rules, 2006 where a dealer or a person furnishes a challan in Form VAT-37 or a receipt in Form VAT-38 or Form VAT-39 in order to claim an adjustment of the amount covered by such challan/receipt and if such adjustment is not made for want of proper verification of such deposits from the records of check post or Revenue Collection Register (RCR) and in case of tax deducted at source (TDS), after verification of VAT-41(Certificate of deduction at source by awarder), the AA himself shall get the verification done and shall not enforce the demand to that extent. As per departmental circular dated 26 April 2004 all AAs shall maintain RCR in the prescribed format with effect from 1 April 2004 and adjustment of deposits should be allowed only after verification with RCR.

During scrutiny of records of selected circles it was noticed that demands of ₹ 1.34 crore were outstanding due to non-verification of amount shown as deposited at check posts, by challans or adjustments of TDS as discussed below:

2.9.17.1 Tax deposited at check post

During test check of records, it was noticed (December 2012 to April 2013) that in 18 cases of three Circles[5], the dealers claimed credit of ₹ 64.88 lakh in their returns stating that advance tax had been deposited by them at the departmental check posts for the period from 2003-04 to 2009-10 (assessed between December 2006 and December 2011). As per Rule 45 of RVAT Rules, the AAs were required to get the verification done from the check posts records. However, they did not allow such credit for want of verification and raised demand to that extent. It was noticed that the verification reports were not obtained even after lapse of period ranging between three and nine years.

The Government replied (October 2013) that demand of ₹ 14.28 lakh had been verified and adjusted in three cases and directions were being issued to AAs for verification of tax deposited at check posts.

2.9.17.2 Tax deposited by challans or by TDS

During test check of records of selected circles, it was noticed (May 2013) that adjustment of deposits by challans/TDS of ₹ 69.32 lakh was not allowed by the AAs for want of verification with RCR or TDS from concerned circles in 11 cases at Circle B-Bhiwadi and Jhunjhunu for the period 2006-07 to 2009-10 (assessed between February 2009 and February 2012). The verifications should have been done by the AAs immediately before the assessment in these 11 cases but the delay in verification ranged between three and six years.

[5] Circles: B-Bharatpur, B-Jaipur and Makrana.

The Government replied (October 2013) that directions were being issued to AAs for verification of tax deducted at source. The Government further replied (February 2014) that an amount of ₹ 26.71 lakh in six cases had been verified and adjusted.

2.9.18 Non-recovery of arrears under CST Act

A dealer who claims partial or full exemptions from payment of tax on sale/transfer of goods shall furnish declaration form. As per Rule 12 of the CST (Registration & Turnover) Rules, 1957, the declaration in Form 'C', Form 'F' and the Certificate 'E-I or E-II', as the case may be, shall be furnished within three months after the end of the period to which the declaration or the certificate relates. Further, the declaration form 'H' shall be furnished upto the time of assessment by the first Assessing Authority.

During scrutiny of records of selected circles, it was noticed (April 2012 to May 2013) that in 178 cases of 13 Circles[6], demands of ₹ 10.51 crore and interest of ₹ 2.31 crore were outstanding for recovery due to non-submission of CST declaration forms pertaining to the period 1992-93 to 2009-10.

The declaration forms were required to be submitted by the dealers within three months after the end of the period to which the declaration or the certificate relates. However, the same were not submitted and accordingly demands were raised at the prescribed rates instead of concessional rate by the AAs. It was also noticed that the dealers had not asked for any extension of time for submission of forms.

It was further noticed that seven dealers of two circles against whom demand of ₹ 59.13 lakh was outstanding for want of CST forms had closed their businesses between 2004-05 and 2010-11. The AAs had, however, not made any efforts to recover the demand against these dealers except for issuing routine demand notices.

The Government replied (October 2013) that demands of ₹ 3.74 crore were adjusted in 31 cases.

The CCT during Exit Conference stated that it was within the competency of the AAs as per the Act to allow extension in submission of CST forms and that the Department had started recoveries in cases where no time extension was allowed.

The reply of the Department is not correct as audit has pointed out only those cases which were finalised by the AAs and rates as prescribed by the State Government were applied i.e. treating the sales without supporting declaration form. But in none of these cases action for recovery was taken.

[6] Circles: B-Bharatpur, B-Bhiwadi, A-Jaipur, B-Jaipur, E-Jaipur, Special-III Jaipur, Jhunjhunu, B-Kota, Makrana, Rajsamand, Sirohi, Special Sriganganagar and B-Udaipur.

2.9.19 Non-recovery of arrears under RST/RVAT Act

A dealer who claims partial or full exemptions from payment of tax on sale/transfer of goods shall furnish declaration form. As per Rule 23 of RST Rules, 1995 the dealer shall furnish declaration forms with the return/s or at the time of assessment or within six months from the date of assessment as AA may allow. Further, the AA may allow, for reasons to be recorded in writing, a further period of six month for furnishing of declaration form such as 'ST-17' or 'ST-17B', and other certificates as prescribed, along with his returns.

Further, as per Rule 21 of RVAT Rules, 2006, the dealer shall be required to furnish declaration forms such as VAT-15 and other certificates as prescribed, along with the returns or prior to the due date of annual returns or audit reports, as the case may be.

The State Government from time to time amended Rule 21 of RVAT Rules at its own volition and extended the period for submission of the pending RST/RVAT declaration forms/certificates up to June 2013.

During scrutiny of records of selected circles, it was noticed (April 2012 to May 2013) that in 64 cases of nine Circles[7], demand of ₹ 2.09 crore and interest of ₹ 1.13 crore were outstanding recovery for the period 1993-94 to 2009-10 due to non-submission of declaration forms/certificates under RST/RVAT up to June 2013. The Department by giving continuous extension of time for submission of RST/RVAT forms to the defaulting dealers has prompted non-adherence to its own framed Rules/Act.

It was further noticed that seven dealers of three selected circles against whom demands of ₹ 67.86 lakh were pending for non submission of RST/RVAT declaration forms had closed down their businesses between 2000-01 and 2009-10. The AAs had, however, not made any efforts to recover the demand against these dealers other than issuing routine demand notices.

The Government replied (October 2013) that demand of ₹ 31.00 lakh were adjusted in six cases.

The Department should review the position and fix a final deadline, as allowing extension in submission of declaration forms, which are pending since 1993-94, is not in the interest of revenue.

[7] Circles: B-Bharatpur, B-Bhiwadi, E-Jaipur, Jhunjhunu, B-Kota, Makrana, Rajsamand, Special Sriganganager and B-Udaipur.

2.9.20 Non-lodging of interest claims before Official Liquidator (OL)

As per Section 55 of RVAT Act, 2003, where any person or a dealer commits a default in making the payment of any amount of tax, fee, penalty, interest or any other amount payable by him, he shall be liable to pay interest on such amount at such rate as notified by the State Government from time to time.

The OLs are officers appointed by the Central Government under Section 448 of the Companies Act and are attached to various High Courts. The primary function of the OL is to administer the assets of companies under liquidation, sale of the assets and realisation of all debts of companies under liquidation for the purpose of distributing the same among the various creditors and other share holders of the companies and to finally dissolve the company after such affairs are completed.

During test check of records of CTO, Special-I Circle, Jaipur, it was noticed (February 2012) that two companies had wound up in August 2003 (M/s Kesri Vanaspati Products Limited, Jaipur) and December 2006 (M/s Pooja Granite and Marbles Limited, Jaipur). However, further scrutiny of files disclosed that the AA had not included the interest amount of ₹ 4.75 crore in respect of M/s Kesri Vanaspati Products Limited, Jaipur and ₹ 1.11 crore in respect of M/s Pooja Granite and Marbles Limited, Jaipur when claims for recovery of arrears were lodged before the OL on 27 October 2006 and 6 January 2007 respectively. This resulted in loss of interest of ₹ 5.86 crore.

The Government replied (February 2014) that a revised claim including interest had been sent to the OL in case of M/s Kesri Vanaspati Products Limited, Jaipur and in case of M/s Pooja Granite and Marbles Limited, Jaipur submission of interest claim was under process.

2.9.21 Non-realisation of arrears of tax due to inadequate follow-up with Debt Recovery Tribunal (DRT)

DRT has been constituted under Section 3 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993. If the dealer's property is under the possession of the DRT, the Department has to lodge its claim before the DRT.

During test check of recovery files of ACTO, Ward-III, Circle E, Jaipur it was noticed (August 2013) that a demand of ₹ 1.99 crore was outstanding against M/s Pratap Rajasthan Special Steel Ltd, Jaipur for the period 1994-95 to 2000-01. The case was categorised as 'under stay' by the AA for the period from March 2000 to April 2003. However, as per the JCTO's report (June 2012) the DRT had sold out the movable and immovable property of the company in 2005 to a number of units and the sale proceeds had been distributed among financial institutions.

The Government replied (October 2013) that concerned AA had been directed to expedite the matter. The chances of recovery from the company are remote as no other assets of the dealer are now available.

2.9.22 Non-realisation of arrears due to non-vacation of stay in cases pending with Rajasthan High Court and Rajasthan Taxation Tribunal

A legal cell was created in the office of the CCT to monitor all cases pending with the Rajasthan High Court and other Courts. Scrutiny of recovery files of two circles disclosed that in two cases, the AA did not take adequate measures promptly to get the embargo lifted on recoveries. As a result, the arrears amounting to ₹ 3.39 crore and interest thereon remained blocked as detailed below:

2.9.22.1 During scrutiny of records of CTO, Special Circle, Ajmer it was noticed (December 2011) that a case of M/s Koyana Rocla Pipes Ltd, Kekri was pending with the Rajasthan Taxation Tribunal (Tribunal). It was found that demands of ₹ 3.22 crore relating to the years 1989-90 to 1997-1998 were raised between 1993-94 and 2000-01, but could not be recovered due to restriction on coercive steps (stay) by orders of the Tribunal. Though, more than 15 years have elapsed since the orders of the Tribunal no effective steps were taken by the Department for vacation of stay and recovery of arrear. Further, the factual report on the case was provided to the Government Advocate after 12 years in January 2010.

In the year 1999, the Tribunal was abolished and the case was transferred to Rajasthan High Court. However, there was no change in the status and the stay remained in force (February 2014).

Thus, lack of prompt action by the Department resulted in non- recovery of demand of ₹ 3.22 crore and interest thereon.

The Government accepted (February 2014) that the case was still under stay and stated that the next date of hearing was yet to be intimated.

2.9.22.2 During scrutiny of records of AC, Circle Rajsamand, it was noticed (March 2013) that in the case of M/s Saraswati Marble and Granite Industries, a demand of ₹ 17.02 lakh for the year 1996-97 was raised in February 2004. The Hon'ble Rajasthan High Court passed (June 2004) a stay order that the Department shall not adopt any coercive measure for recovery. As per the recovery file, the last hearing of the case was fixed on 2 March 2005 and thereafter, no further details were found. Inaction by the AA to pursue the case resulted in non-recovery of demand of ₹ 17.02 lakh and interest thereon.

The Government replied (February 2014) that efforts were being made to get the stay vacated.

2.9.23 Internal Control

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules, executive instructions etc. Such control is exercised through internal audit and periodical effective inspection by the supervisory officers.

Deficiencies in the system of periodical review of the arrear cases and monitoring by the senior officers coupled with lack of coordination of AA with the Land Revenue Officers, BIFR, OL and other State officers for inter-State recoveries led to non-recovery of arrears as have been pointed out in some of the preceding paragraphs. Further, deficiencies noticed in the internal control mechanism are discussed below:

2.9.23.1 Internal Audit

As per Para 19 (Chapter-3) of Internal Audit Manual, Internal Audit was required to audit all the recovery cases involving demand of more than ₹ one crore to reveal the deficiencies in the efforts to recover the dues and to fix responsibilities on officers concerned in the defaulting cases.

Scrutiny of internal audit reports of the selected circles revealed (April 2012 to May 2013) that no observation was made regarding non-recovery of arrears of revenue in the selected circles. Resultantly, the Department could not identify the deficiencies in the system and put in place the required preventive measures.

The Department replied (October 2013) that separate instructions had been issued to IAW for recovery of arrears and to fix responsibilities in this regard.

2.9.23.2 Non-revision of additional security deposit of dealers

Section 15 of RVAT Act provides that the AA shall require the dealer to furnish the initial security or such additional security as may be considered necessary for timely payment of the amount of tax or other sum payable by him. Further, the amount of security, in case of a dealer who is already registered may be increased by the AA, for reasons to be recorded in writing, to 25 *per cent* of the annual tax liability of the immediate preceding year and for the dealers registered in the current year such increase in the security amount may be 25 *per cent* of the highest tax liability of the preceding months or the quarters, as the case may be.

However, it was noticed (July 2013) that in none of the selected circles, the AA asked the dealers to deposit the security deposit to the extent of 25 *per cent* of the annual tax liability, of the immediate preceding year in case of a dealer who was already registered and to the extent of 25 *per cent* of the highest tax liability of the preceding months or the quarters, in case of a dealer who registered in the current year. In the absence of proper security, the AAs were not in a position to realise the arrears if any of the dealers defaulted.

It was further noticed that the CCT had issued (July 2007) directions that the security amount of dealers who had defaulted in making timely payment of tax should be increased but the AAs did not comply with the direction and the senior officers did not monitor its implementation.

The Department replied (October 2013) that security deposit was revised as and when required. The reply is not acceptable as no such case was noticed during the conduct of this performance audit.

2.9.24 Non-production of records

Copies of returns filed by the dealers, orders passed by AAs, notices served to the dealers and other correspondences are filed in assessment files for each year in respect of each dealer. These files are the basis for initiation of recovery proceeding provided under the Acts in cases where there are arrears of revenue.

During review of records of 12 Circles[8], recovery records of 566 cases pertaining to the period 1969 to 2010 were not produced to Audit.

Non-availability of recovery records will adversely affect the pursuance of cases for recovery of arrears and will adversely impact recovery of ₹ 25.96 crore.

The CCT agreed during Exit Conference that record keeping in the Department was poor and stated that efforts were now being made to keep the records in proper shape.

2.9.25 Conclusion

The Performance Audit on 'Recovery of arrears in Commercial Taxes Department' disclosed a number of deficiencies, which were having adverse impact on recovery of arrears. The Department did not prescribe control registers to monitor progress of recovery. In addition, no time frame was prescribed for initiation of recovery proceedings. Status certificate and sureties were not ascertained at the time of issue of registration certificate. There were abnormal delays in attachment of property and auction thereof with the result that dealers were not traceable after winding up their business, with huge tax demands pending against them. The officials of the Department were slack in pursuing recovery of old dues, resulting in pendency of old demands for years together, though such dealers were paying the current demands regularly. Action under Revenue Recovery Act, 1890 and Land Revenue Act, 1956 were unimpressive and amount of arrears was piling up due to non-verification of ITC/tax deposited at check post or by challans and non-submission of declaration forms. The Department also did not pursue the cases with High Court/Official Liquidator/Debt Recovery Tribunal and other authorities properly with the result that revenue got locked up in litigation. Non-revision of security deposits and deficiencies in internal control and internal audit system also affected the performance of the Department as regards recovery of arrears.

[8] Circles: B-Bharatpur, B-Bhiwadi, A-Jaipur, B-Jaipur, E-Jaipur, Special-II Jodhpur, B-Kota, Makrana, Rajsamand, Sirohi, B-Udaipur and Anti-Evasion-II Rajasthan Jaipur.

2.9.26 Recommendations

The Government may consider:

- **prescribing targets for recovery of arrears for the Assessing Authorities;**
- **prescribing control registers to allow for proper follow up and monitoring of recovery of arrears of revenue by CCT on a monthly basis;**
- **identifying causes for not being able to auction properties of defaulting dealers;**
- **ensuring that there is a close monitoring over submission of returns by the dealers, timely issue of demand notices by responsible officers and on the status of business of the dealers as reported by the JCTOs;**
- **evolving a practical and time bound monitoring system by the Department and the Collector of the district for issuing RRCs in time and regularly coordinating with the Collectors in other States;**
- **reviewing its practices of granting extensions time and again for submission of the declaration forms in the interest of prompt realisation of its dues from the dealers; and**
- **fixing targets for examination of arrear cases by the IAW to collect the huge revenues of ₹ 4,838.04 crore outstanding and due to it.**

2.10 Audit observations

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

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

The RVAT Act, Rajasthan Tax on Entry of Goods into Local Areas Act, Rules and Notifications provide for:

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

(b) levy of entry tax;

(c) levy of reverse tax;

(d) levy of interest and penalty; and

(e) grant of subsidy.

Test check of records revealed that the relevant provisions were not correctly observed by the assessing authorities leading to non-levy/short levy/short realisation of tax/interest as stated in paragraphs 2.12 to 2.17.

2.12 Non-levy of tax on 'de-oiled rice bran'

Under Section 4 of the RVAT Act, 2003, the tax payable by a dealer shall be levied on the taxable turnover of goods at the rate mentioned against each of such goods specified in Schedules III to VI. 'de-oiled rice bran' is taxable at the rate of 4 *per cent* as per serial number 64 of Schedule IV appended to the Act. The State Government *vide* notification dated 8 July 2009 exempted the sale of de-oiled rice bran from tax with effect from 8 July 2009. Interest is leviable on delayed payment of tax under Section 55 of the RVAT Act.

During test check of records of CTO, Circle-D Jaipur, it was noticed (September 2012) that a dealer (M/s Jagdish Traders, Jaipur) sold 'de-oiled rice bran' valued at ₹ 2.08 crore during 2007-08 and 2008-09 as exempted goods. However, the AA, while finalising (November 2009 and July 2010) the assessments of the dealer did not levy tax on the goods treating it as tax free sale. Therefore, incorrect treatment of sale of 'de-oiled rice bran' as tax-free commodity from a date prior to exemption from tax resulted in non-levy of tax of ₹ 8.31 lakh and interest of ₹ 3.93 lakh as detailed below:

(₹ in lakh)

Year	Value of the goods	Tax leviable @ 4 *per cent*	Interest leviable (upto 3/2012)
2007-08	90.94	3.64	1.97
2008-09	116.89	4.67	1.96
Total	**207.83**	**8.31**	**3.93**

The omission was pointed out to the Department (October 2012) and reported to the Government (April 2013). The Government intimated (November 2013) that a demand of ₹ 11.47 lakh along with interest had been raised. However, the dealer approached (June 2013) the DC (Appeal), Jaipur who granted stay on ₹ 9 lakh and ordered for recovery of ₹ 2.47 lakh for 2007-08 and 2008-09. The dealer had deposited ₹ 2.47 lakh. Report on remaining recovery is awaited (February 2014).

2.13 Non-levy of reverse tax

By issue of a notification dated 31 March 2006 under Section 18(4) of the RVAT Act, 2003, the State Government allowed a dealer to claim input tax credit (ITC), in excess of four *per cent* of tax paid in the State on the purchase of goods used as raw material in the manufacture of goods if such manufactured goods are consigned outside the State by way of branch transfer. In case, where input tax credit was wrongly availed, reverse tax was to be levied.

2.13.1 During test check of assessment records of CTO, Circle-B, Bharatpur, it was noticed (September 2011) that two dealers consigned goods outside the State by way of branch transfer and claimed ITC on raw materials

purchased within State. While finalising (September and December 2010) assessments of dealers for the years 2008-09, the AA did not ensure reversal of ITC upto the extent of four *per cent* on purchase of goods within the State. This resulted in non-levy of reverse tax of ₹ 7.92 lakh and interest of ₹ 3.32 lakh as detailed below:

(₹ in lakh)

Name of dealer	Name of commodity consigned	Percentage of goods consigned to the total sales	Amount of ITC claimed @ 4 *per cent*	Amount of ITC not reversed on proportionate basis	Interest (upto 3/2012)
M/s Goverdhan Oil Mills, Bharatpur	Mustard Oil	3.54	182.51	6.46	2.71
M/s Bansal Industries, Bharatpur	Mustard Oil	8.54	17.04	1.46	0.61
Total				**7.92**	**3.32**

The omission was pointed out to the Department (September 2011) and reported to the Government (December 2011). Government intimated (August 2013) that demand of ₹ 7.92 lakh and interest of ₹ 2.69 lakh had been raised in July 2013. Government further intimated (November 2013) that dealers did not deposit the demand after issue of notices; hence action was being initiated to freeze the Bank account.

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

2.13.2 During test check of assessment records of CTO, Circle-A, Bhilwara, it was observed (July 2012) that a dealer (M/s Bhartiya Spinners Ltd, Gangapur, Bhilwara) claimed ITC on purchase of taxable goods to be used as raw material in the manufacture of taxable and exempted goods. However, the dealer did not reverse ITC of ₹ 4.11 lakh during 2008-09 and ₹ 1.17 lakh during 2009-10 on proportionate basis. The AA, while finalising (January and December 2011) assessments of the dealer for the years 2008-09 and 2009-10 did not reverse ITC in respect of raw material used in the manufacture of exempted goods in accordance with the provisions of the RVAT Act, 2003. This resulted in non

levy of reverse tax of ₹ 5.28 lakh and interest of ₹ 2.07 lakh (calculated upto March 2012).

The omission was pointed out to the Department (August 2012) and reported to the Government (April 2013). The Government intimated (September 2013) that demand of ₹ 6.21 lakh and interest of ₹ 3.34 lakh for the year 2008-09 and 2009-10 had been raised in July 2013. The Government further intimated (November 2013) that sums of ₹ 3 lakh for the year 2008-09 and ₹ 1.50 lakh for the year 2009-10 had been recovered. Report on remaining recovery is awaited (February 2014).

2.14 Irregular grant of concession/exemption

As per Rule 12(7) of the Central Sales Tax (Registration & Turnover) Rules, 1957, the declaration in Form 'C' or Form 'F' or the certificate in Form 'E-I' shall be furnished to the prescribed authority within three months after the end of the period to which the declaration or the certificate relates, provided that if the prescribed authority is satisfied that the person concerned was prevented by sufficient cause from furnishing such declaration or certificate within the aforesaid time, that authority may allow such declaration or certificate to be furnished within such further time as that authority may permit.

During test check of the assessment records of four CTOs[9], it was noticed that demands aggregating to ₹ 1.43 crore (Tax ₹ 1.14 crore and Interest ₹ 28.65 lakh) were reduced on submission of declaration forms by nine dealers after assessment, without recording cause of delay, which was in-contravention of the rule. It was further noticed that in five cases, the AAs[10] had reduced the demands by ₹ 1.08 crore under Section 33 of RVAT Act, 2003 and in four cases, the demands were reduced without mentioning any Section. Under the aforesaid Section 33, the AA could only rectify the mistake which was apparent from the record but had no power under Section 33 to reduce the demand in these cases.

The omission was pointed out to the Department (August, September 2011 and July 2012) and reported to the Government (August 2011, March 2012 and May 2013). The Government replied (November 2013) that the AAs can extend the time period after being satisfied. The Government also cited decision of Hyderabad Asbestos Cement Productions Ltd. (1994) STC 410 (SC) AIR 1994 SC 2364, in support of its contention.

However, the reply is not acceptable as the Hon'ble Supreme Court in its referred decision stated that this power can be exercised only where sufficient cause is shown by the dealer for not filing the declaration forms upto the time of assessment before the first Assessing Authority. In the case of the above dealers, sufficient cause, for not filing the declaration forms and basis of satisfaction of AA were not recorded in assessment orders. Therefore,

[9] CTO: Circle-E Jaipur; Circle: Works Contracts and leasing Tax-I Jaipur, Circle: Special Udaipur and Circle: Sikar.
[10] CTO: Circle- Special Udaipur.

Department should have taken action as per the above mentioned provisions of rules.

2.15 Irregular/excess grant of subsidy

The State Government vide notification dated 28 July 2003, introduced the Rajasthan Investment Promotion Scheme, 2003 (RIPS) to attract investors to Rajasthan. As per para 7(i)(b) of the RIPS, in case of investment made in expansion, the amount of subsidy shall be subject to a maximum of 50 *per cent (*75 *per cent* where the investments exceed (₹ 200 crore) of the additional amount of RST/VAT and CST payable or deposited by the unit over and above the highest tax payable or deposited whichever is higher, in any of the three preceding years *i.e.,* base year.

As per Section 17(1) of RVAT Act, 2003, tax payable by a dealer shall be calculated by adding the amount of output tax, reverse tax and purchase tax less the amount of ITC.

Further, as per Section 18(1) of RVAT Act, 2003 ITC shall be allowed to registered dealers, in respect of purchases of any taxable goods made within the State from a registered dealer for the purposes as mentioned in the sub section and includes the purpose of sale in the course of export outside the territory of India.

It was also clarified vide notification dated 10 October 2008 for RIPS that the tax payable by the units availing benefit of RIPS is the amount of tax leviable less the amount of ITC. Besides, breach of any of the conditions shall make the subsidy amount liable to be recovered as tax along with interest at the rate of 18 *per cent* per annum from the date from which subsidy was provided as per paragraph 10 of the RIPS.

2.15.1 During test check of records of CTO, Special Circle, Bhilwara, it was noticed (March 2013) that in the case of a dealer (M/s Sangam India Ltd., Bhilwara) tax payable was incorrectly determined as ₹ 17.19 crore instead of ₹ 15.53 crore due to exclusion of ITC claimed on exported goods. Further, tax exempted under incentive scheme amounting to ₹ 15.29 lakh was also irregularly included for calculation of tax payable and tax deposited. The AA allowed subsidy to the dealer on the basis of incorrect determination of tax payable and consequently determined incorrect maximum limit of subsidy during 2011-12.

Incorrect determination of tax payable and tax deposited resulted in excess grant of subsidy of ₹ 1.16 crore and interest liability of ₹ 9.68 lakh (calculated upto March 2012).

The omission was pointed out to the Department (April 2013) and reported to the Government (May 2013). The Government intimated (November 2013) that demand of ₹ 1.17 crore and interest of ₹ 39.88 lakh had been raised in August 2013. Report on recovery is awaited (February 2014).

2.15.2 During test check of records of CTO, Special Circle, Bhilwara, it was noticed (March 2013) that in the case of a dealer (M/s BSL Ltd., Bhilwara), tax payable was incorrectly determined as ₹ 1.27 crore instead of ₹ (-) 44.50 lakh due to exclusion of ITC claimed on the exported goods. As tax payable was negative, subsidy was not allowable to the dealer. However, the AA allowed subsidy to the dealer on the basis of incorrect determination of tax payable during 2011-12.

Incorrect determination of tax payable and tax deposited resulted in excess grant of subsidy of ₹ 29.78 lakh and interest liability of ₹ 2.40 lakh (calculated upto March 2012).

The omission was pointed out to the Department (April 2013) and reported to the Government (May 2013). The Government intimated (November 2013) that demand of ₹ 29.78 lakh and interest of ₹ 10 lakh had been raised in August 2013. Report on recovery is awaited (February 2014).

As per para 7(i)(b) of the Rajasthan Investment Promotion Scheme, 2003 (RIPS), in case of investment made in excess of ₹ 200 crore in expansion, the amount of subsidy shall be subject to a maximum of 75 *per cent* of the additional amount of RST/VAT and CST payable or deposited by the unit over and above the highest tax payable or deposited whichever is higher, in any of the three preceding years i.e. base year. As per paragraph 9(B) (vii) of the RIPS 2003, the payment of subsidy shall be made only for the period for which the unit deposits State and/or Central sales tax.

As per Section 55 of RVAT Act, 2003, if a dealer commits a default in making the payment of tax within specified time under the provisions of the Act or the rules made or notification issued thereunder, he shall be liable to pay interest at the rate of 12 *per cent* per annum.

2.15.3 During test check of the assessment records of CTO, Special Circle Udaipur, it was noticed (January 2013) that a dealer (M/s Shree Rajasthan Sintex Ltd, Udaipur) was sanctioned subsidy of ₹ 1.24 crore under RIPS against the tax payable by the dealer for the year 2009-10. However, the dealer had not deposited the tax and was not entitled for subsidy as per provisions of the RIPS. Further, the AA while finalising (January 2012) the assessment adjusted the subsidy against the tax liability for the year 2009-10 which was credited into Government account after a delay ranging between 10 and 23 months. This resulted in irregular grant of subsidy of ₹ 1.24 crore as well as non levy of interest of ₹ 20.29 lakh.

The omission was pointed out to the Department (February 2013) and reported to the Government (April 2013). The Government intimated (November 2013) that demand of interest of ₹ 19.01 lakh had been raised in August 2013. However, the Department did not take any action to recover the irregularly sanctioned subsidy.

2.16 Incorrect/Excess grant of deferment of tax

The State Government notified on 23 May 1987 the 'Sales Tax Incentive Scheme for Industries, 1987' (Scheme) whereunder industrial units were exempted from payment of tax on sale of goods manufactured by them within the State or in the course of inter-state trade or commerce subject to condition as prescribed in the Scheme. As per parargraph (3) of Annexure-C of the scheme, sales tax exemption was subject to an overall limit of ₹ 4.00 crore.

Further, as per notification dated 31 March 2006, an industrial unit availing the benefit of exemption from tax under Incentive Scheme was allowed to defer the payment of tax payable by it. As per paragraph (1) of the notification the cumulative benefit of exemption of tax already availed of and the benefit of deferment to be allowed was not to exceed the quantum of exemption sanctioned under the Scheme.

2.16.1 During test check of records of CTO, Circle-C, Jaipur, it was noticed (July 2012) that a dealer (M/s Rishabh Computronix Ltd., Jaipur) already availing the benefit of tax exemption as per the Scheme had opted for deferment benefits under notification dated 31 March 2006. The dealer was eligible for total tax exemption/ deferment upto overall limit of ₹ 4.00 crore. However, the dealer had exceeded the limit during 2007-08 and availed the excess benefit of deferment of ₹ 5.81 crore upto 2008-09 which had already been pointed out in the Audit Report 2011-12. The AA, while finalising (February 2012) the assessment of the dealer for the year 2009-10 further incorrectly allowed deferment benefit of ₹ 3.65 crore. This resulted in further excess grant of deferment of tax amounting to ₹ 3.65 crore and interest of ₹1.09 crore (calculated upto March 2012).

The omission was pointed out to the Department (August 2012) and reported to the Government (April 2013). The Government intimated (August 2013) that demand of ₹ 8.62 crore had been raised for the period 2007-08 to 2008-09 and Bank accounts of the Directors had been seized. It was also stated that proceedings for attaching dealer's factory had been initiated. Further, the Department intimated (November 2013) that demands aggregating to ₹ 5.47 crore had been raised for the period 2009-10. Report on recovery is awaited (February 2014).

As per notification dated 31 March 2006, the industrial units availing benefits of exemption from tax under the Rajasthan Sales Tax/Central Sales Tax Exemption Scheme for Industries, 1998, were allowed to defer the payment of tax payable by them to the extent mentioned therein. As per para 6 of the notification, the percentage of deferment of tax in the extended period shall be equal to the extent of the percentage of deferment of tax in the year immediately preceding such extension.

2.16.2 During test check of the assessment records of the CTO, Special Circle, Udaipur for the year 2009-10, it was noticed (January 2013) that a dealer (M/s Peacock Industries, Udaipur) who was a beneficiary of the Incentive Scheme, 1998, since 2001-02 was allowed to defer tax under the notification dated 31 March 2006. The dealer was entitled to defer 10 *per cent* of the tax payable during the year 2009-10. The dealer, however, claimed 40 *per cent* deferment of tax during the year treating it as an extended period of the scheme. The AA, while finalising (January 2012) the assessment for the year 2009-10, allowed 40 *per cent* deferment of tax of ₹ 38.05 lakh, as claimed by the dealer against the allowable deferment of tax amounting to ₹ 9.51 lakh only. This resulted in excess deferment of tax of ₹ 28.54 lakh on which interest of ₹ 8.56 lakh (calculated upto March 2012) is leviable.

The omission was pointed out to the Department (February 2013) and reported to Government (April 2013). The Government intimated (August 2013) that as per notification dated 31 March 2006 benefit of consolidated deferment was allowable for five years only with effect from 1 April 2006 and there was no provision in the notification for restricting yearly tax deferment benefit by 10 *per cent*. It was further stated that the dealer had been allowed benefit at the rate of 40 *per cent* as per paragraph 6 of notification dated 31 March 2006. The reply as furnished by the Department is not in line with the provisions of the notification dated 31 March 2006 which stipulates that 'remaining eligible period under the old scheme shall be extended equal to the remaining eligibility period subject to a maximum of five years'. Accordingly the extended period will start after the completion of already sanctioned period of the scheme and provisions of paragraph 6 are applicable for the extended period only. In this case, the year 2009-10 was within the original sanctioned (remaining) period. Therefore, the dealer was entitled for deferment at the rate of 10 *per cent* only as mentioned in Annexure-B of the scheme as per notification.

The State Government notified Sales Tax Deferment Scheme for Industries, 1987 and the Rajasthan Sales Tax/Central Sales Tax Deferment Scheme for Industries, 1998. The State Government allowed dealers to defer the tax payable on the intra-state sale/inter-state sales of the goods manufactured by them within the State. With effect from 1 April 2006, the RVAT Act, 2003 came into force. As per Section 17 of the RVAT Act the term *'tax payable* by a dealer' is the amount of output tax leviable less the amount of input tax credit.

2.16.3 During test check of records of Special Circle, Bhilwara, it was noticed (March 2013) that two dealers (M/s Modern Woolen Mills, Bhilwara and M/s RSWM Ltd., Gulabpura) were availing benefit of tax deferment under either the Sales Tax Deferment Scheme for Industries, 1987 or the RST/CST Deferment Scheme for Industries, 1998. The AA, while finalising (January 2012) assessments of the dealers, allowed deferment of tax on total tax due instead of tax payable after deducting input tax credit from output tax. This resulted in excess grant of deferment of tax of ₹ 28.36 lakh and interest of ₹ 8.51 lakh (calculated upto March 2012).

The omission was pointed out to the Department (April 2013) and reported to the Government (May 2013). In the case of M/s Modern Woolen Mills, Bhilwara the Government intimated (December 2013) that demand of ₹ 11.64 lakh and interest of ₹ 5.43 lakh had been raised and efforts were being made for recovery. In case of M/s RSWM Ltd, Gulabpura it was stated that demand of ₹ 16.84 lakh and interest of ₹ 7.86 lakh had been raised but the dealer (M/s RSWM Ltd., Gulabpura) had obtained stay (October 2013) on 50 *per cent* of demand of ₹ 12.35 lakh from the Appellate Authority. Report on remaining recovery is awaited (February 2014).

2.17 Non-levy of Entry Tax

By issue of a notification dated 8 March 2006 under Section 3(1) of the Rajasthan Tax on Entry of Goods into Local Area Act, 1999, the State Government specified the tax payable by a dealer in respect of the specified goods brought into any local areas for consumption or use or sale therein, at such rates as shown in the notification.

During cross check of Entry Tax assessment records with VAT assessment records of two Commercial Taxes Circles, it was noticed (September 2012 and February 2013) that three dealers had purchased goods amounting to ₹ 9.80 crore from outside the State during 2007-08 to 2009-10. The AAs, while finalising (September 2010 to March 2012) the Entry Tax assessments of the dealers, did not link the above purchases with the purchases shown in the documents (Form VAT-47/VAT Audit Report) enclosed with VAT returns. This resulted

in non-levy of Entry Tax of ₹ 21.85 lakh and interest of ₹ 8.41 lakh as detailed below:

(Amount in ₹)

Sl. No	Name of circle	Name of dealer	Period and date of order	Name of goods imported	Value of goods on which entry tax was not levied (rate of entry tax)	Entry tax leviable	Interest leviable (upto March 2012)
1	Special Bharatpur	M/s Rajasthan Explosive & Chemicals Ltd., Dholpur	2008-09/ 31.1.11	Paraffin Wax, Bitumen, Explosives, Electrical items,	93,04,559 (4% & 3%)	3,43,892	1,44,434
2		M/s Bharat Agencies, Bharatpur	2007-08/ 21.9.10	Motor cycles & their parts	1,66,17,921 (1%)	1,66,179	89,736
			2008-09/ 29.12.10		1,08,92,082 (1%)	1,08,921	45,747
			2009-10/ 31.1.12		2,93,64,818 (1%)	2,93,648	88,094
3	A, Ajmer	M/s Rameshwar Buildmate Pvt. Ltd., Ajmer	2008-09/ 15.2.11	Glass and Glass sheets	1,88,99,852 (4%)	7,55,994	3,17,517
			2009-10/ 14.2.12		1,29,16,544 (4%)	5,16,661	1,54,998
Total					**9,79,95,776**	**21,85,295**	**8,40,526**

The omission was pointed out to the Department (October 2012 to March 2013) and reported to the Government (April 2013). The Government intimated (August 2013) that in pursuance of the audit observation, the AA of CTO Circle-A, Ajmer, had raised a demand of ₹ 18.98 lakh along with interest. However, the dealer (M/s Rameshwar Buildmate Pvt. Ltd., Ajmer) approached the DC (Appeal), Ajmer who granted stay (May 2013) with condition that the dealer deposit 50 *per cent* of demand amount. The dealer had deposited ₹ 9.50 lakh in July 2013.

In case of CTO, Special Circle, Bhartpur, the Government intimated (November 2013) that demand of ₹ 8.49 lakh had been raised in case of M/s Bharat Agencies, Bhartpur and demand of ₹ 2.99 lakh had been raised in case of M/s Rajasthan Explosive & Chemicals Ltd., Dholpur. Reasons for short raising of demands were, however, not furnished despite request of audit. Report on remaining recovery is awaited (February 2014).

CHAPTER-III

TAXES ON MOTOR VEHICLES

CHAPTER-III: TAXES ON MOTOR VEHICLES

3.1 Tax administration

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

The Transport Department is headed by the Transport Commissioner who is assisted by 5 Additional Transport Commissioners and 13 Deputy Transport Commissioners. The entire State is divided into 11 regions, headed by Regional Transport Officers (RTO) cum *ex-officio* Member, Regional Transport Authority. Besides, there are 37 vehicles registration cum taxation offices headed by District Transport Officers (DTO).

3.2 Trend of receipts

Receipts of taxes on motor vehicles during the years from 2008-09 to 2012-13 along with the total tax receipts of the State have been exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actual Receipts of taxes on motor vehicles	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of 3 to 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2008-09	1,200.00	1,213.56	(+) 13.56	(+) 1.13	14,943.75	8.12
2009-10	1,300.00	1,372.87	(+) 72.87	(+) 5.61	16,414.27	8.36
2010-11	1,500.00	1,612.25	(+) 112.25	(+) 7.48	20,758.12	7.77
2011-12	1,725.00	1,927.05	(+) 202.05	(+)11.71	25,377.05	7.59
2012-13	2,225.00	2,283.13	(+) 58.13	(+) 2.61	30,502.65	7.48

The percentage of receipts of taxes on motor vehicles as compared to total tax receipts of the State showed a declining trend over the years except the year 2009-10. By the year 2012-13, these receipts accounted for 7.48 *per cent* of total tax receipts of the State.

3.3 Analysis of arrears of revenue

The following table depicts the position of arrears of revenue as on 31 March 2013.

(₹ in crore)

Year	Opening balance of arrears as on 1 April 2012	Amount collected during the year 2012-13	Closing balance of arrears as on 31 March 2013
Upto 2007-08	22.11	1.69	20.42
2008-09	6.01	0.55	5.46
2009-10	3.41	0.46	2.95
2010-11	3.91	0.66	3.25
2011-12	18.97	4.98	13.99
Total	**54.41**	**8.34**	**46.07**

It would be seen from the above that arrears of ₹ 20.42 crore are pending for collection for more than five years and with the passage of time the chances of their recovery are bleak.

It is recommended that the Government may issue instructions to the Department to take appropriate action to recover the arrears within a definite time-frame.

3.4 Cost of collection

The gross collection of the revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the period from 2008-09 to 2012-13 along with the relevant All India average percentage of expenditure on collection to gross collection for the same period are as follows:

(₹ in crore)

Sl. No.	Year	Gross collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of expenditure
1.	2008-09	1,213.56	29.25	2.41	2.93
2.	2009-10	1,372.87	27.04	1.97	3.07
3.	2010-11	1,612.25	30.82	1.91	3.71
4.	2011-12	1,927.05	40.65	2.11	2.96
5.	2012-13	2,283.00	40.45	1.77	NA

It was observed that the percentage of expenditure on collection of taxes on motor vehicles to gross collection was lower in comparison to the All India average percentage.

3.5 Impact of Audit Reports

During the last five years (2007-08 to 2011-12), 25 paragraphs on non-levy/short-levy, non-realisation/short realisation, underassessment/loss of revenue, application of incorrect rate of tax, incorrect computation of tax *etc.*

with revenue implication of ₹ 120.52 crore were pointed out. Of these, the Department/Government had fully/partly accepted 21 paragraphs involving ₹ 88.68 crore and had since partly recovered ₹ 32.64 crore in 18 paragraphs (December 2013) as shown in the following table:

(₹ in crore)

Year of Audit Reports	Paragraphs included		Paragraphs accepted		Recovery	
	Number	Amount	Number	Amount	Number of Paragraphs	Amount
2007-08	9	25.15	8	21.50	8	16.07
2008-09	3	47.75	2	19.98	1	0.79
2009-10	4	15.02	4	14.82	3	6.80
2010-11	5	16.72	5	16.72	4	4.75
2011-12	4	15.88	2	15.66	2	4.23
Total	**25**	**120.52**	**21**	**88.68**	**18**	**32.64**

The Department has recovered only 36.80 *per cent* of the accepted amount.

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

3.6 Working of Internal Audit Wing

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

Year	Units pending for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remained unaudited	Shortfall in *per cent*
2008-09	4	79	83	67	16	19
2009-10	16	79	95	89	6	6
2010-11	6	43	49	49	-	-
2011-12	-	43	43	43	-	-
2012-13	-	43	43	43	-	-

It was noticed that 11,234 paragraphs upto 2012-13 were outstanding at the end of 2012-13. Year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	1991-92 to 2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	Total
Paras	7,358	585	725	731	832	1,003	**11,234**

7,358 paragraphs of internal audit reports were outstanding up to the year 2007-08. The huge number of outstanding paragraphs indicates that the Department needs to pay more attention for settlement of the observations raised by the Internal Audit Wing.

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

3.7 Results of Audit

On test check of the records of 22 out of 44 units during 2012-13, audit noticed irregularities involving ₹ 16.05 crore in 5,898 cases, which broadly fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non-recovery/short recovery of tax, penalty, interest and compounding fee	3,716	8.88
2.	Non-computation/short computation of motor vehicle tax/special road tax	2,082	7.14
3.	Other irregularities	100	0.03
Total		**5,898**	**16.05**

The Department accepted underassessment and other irregularities of ₹ 7.02 crore in 5,680 cases, of which 797 cases involving ₹ 2.73 crore were pointed out in audit during the year 2012-13 and the rest in the earlier years. During the year 2012-13, an amount of ₹ 4.97 crore was realised in 2,176 cases, of which ₹ 0.68 crore in 238 cases were pointed out in 2012-13 and ₹ 4.29 crore in 1,938 cases in the earlier years.

A few illustrative audit observations involving ₹ 10.66 crore are mentioned in the succeeding paragraphs.

3.8 Audit observations

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

3.9 Non-compliance of provisions of the Acts/Rules

The RMVT Act, RMVT Rules and notifications provide, inter alia, for:

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

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

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

During test check of the records, it was noticed that Departmental authorities did not observe some of the above provisions in cases mentioned in paragraphs 3.9.1 to 3.9.3.

3.9.1 Taxes on motor vehicles not realised

Under Sections 4 and 4-B of the Rajasthan Motor Vehicles Taxation Act, 1951 and rules made thereunder, motor vehicle tax/special road tax are to be levied and collected on all motor vehicles used or kept for use in the State at the rates prescribed by the State Government from time to time. Further, vide notification dated 9 March 2011, surcharge at the rate of 5 *per cent* on tax is also payable in respect of vehicles not paying lump sum tax.

During test check of the registration records, tax ledgers and general index registers of 19 RTOs and DTOs for the period from 2009-10 to 2011-12, it was noticed (between May 2012 and February 2013) that motor vehicle tax and special road tax in respect of 3,705 vehicles for the period between April 2009 and March 2012 were either not paid or paid short by the owners of these vehicles. There was nothing on record to show that the vehicles were off the road or their liability was transferred to any other taxation officer. This resulted in non/short realisation of tax and

surcharge amounting to ₹ 10.12 crore as mentioned below:

Sl. No.	Category of vehicles	No. of vehicles	Period of tax	Amount (₹ in crore)	Name of offices
1.	Goods vehicles	1,434	April 2009 to March 2012	2.66	RTO- Ajmer, Alwar, Bikaner, Chittorgarh, Jodhpur, Kota and Udaipur; DTO- Jhunjhunu, Kotputli, Pali, Jaipur (goods), Deedwana, Sawai Madhopur, Baran, Ramganjmandi, Karauli, Jaisalmer and Barmer.
2.	Contract carriages (seating capacity upto 13 persons excluding driver)	1,168	April 2009 to March 2012	2.28	RTO- Alwar, Chittorgarh, Ajmer, Bikaner, Udaipur, Kota , Jodhpur, Pali; DTO- Jhunjhunu, Kotputli, Sawai Madhopur, Baran, Ramganjmandi, Karauli, Jaisalmer and Barmer.
3.	Contract carriages (seating capacity more than 13 persons excluding driver)	121	April 2009 to March 2012	1.94	RTO - Jodhpur, Udaipur, Kota, Bikaner; DTO Jhunjhunu, Kotputli, Pratapgarh and Barmer.
4.	Stage carriages	86	April 2009 to March 2012	0.51	RTO- Alwar; DTO-Jhunjhunu, Deedwana, Korauli and Barmer.
5.	Articulated goods vehicles	400	April 2009 to March 2012	1.04	RTO- Ajmer, Bikaner, Chittorgarh, Jodhpur and Udaipur; DTO - Jaipur (goods), Kotputli and Sawai Madhopur.
6.	Passenger vehicles kept without permits	27	April 2010 to March 2012	0.26	RTO- Jodhpur, Bikaner; DTO- Kotputli.
7.	Dumpers/ tippers	469	April 2009 to March 2012	1.43	RTO- Alwar, Ajmer, Bikaner, Udaipur, Kota, Jodhpur; DTO- Jhunjhunu, Kotputli, Jaipur (goods), Deedwana, Baran, Ramganjmandi, Pratapgarh, Jaisalmer and Barmer.
Total		**3,705**		**10.12**	

After the matter was pointed out (between June 2012 and March 2013), the Government stated (September 2013) that in respect of 945 vehicles, ₹ 2.04 crore had been recovered and in respect of 18 vehicles, ₹ 0.13 crore were not recoverable due to issue of no objection certificates to transport vehicles for registration in other State, cancellation of registration certificates and deposit of lump sum tax. Reply in respect of the remaining cases is awaited (February 2014).

3.9.2 Non-recovery/short recovery of outstanding instalments of lump sum tax

Under Section 4-C of the RMVT Act, 1951, a lump sum tax on transport vehicles shall be levied at the rates prescribed by notification from time to time by the State Government. The lump sum tax may be paid in full or in three equal instalments within a period of one year. Further, vide notification dated 9 March 2011, surcharge at the rate of 10 *per cent* on tax is also payable in respect of vehicles paying lump sum tax.

During test check of records of three RTOs Jodhpur, Udaipur, Pali and DTO Ramganjmandi for the years 2009-10 to 2011-12, it was noticed (between October 2012 and February 2013) that in respect of 117 transport vehicles, the vehicle owners opted for lump sum payment of tax in three equal instalments. However, it was observed that either the last two instalments or the third instalment were not paid or paid short by the owners of these vehicles. The taxation officers also did not initiate any action to realise the amount of the tax due. This resulted in non-realisation of lump sum tax amounting to ₹ 49.13 lakh.

The matter was reported to Department and Government between December 2012 and September 2013. The Government stated (October 2013) that in respect of 37 vehicles ₹ 13.68 lakh had been recovered, while in the remaining cases, recovery was under progress. Further, development was awaited (February 2014).

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

As per notification no. F 6/96/Trans/ tax/ HQ/III/7D dated 1 August 2007 issued under Section 4-B of the Rajasthan Motor Vehicles Taxation Act, 1951, special road tax on stage carriages owned by a fleet owner shall be payable at the rate of 2.05 *per cent* of the cost of chassis of the entire fleet of vehicles (other than those plying exclusively within the municipal limits) used or kept for use as stage carriages in the fleet. Further, vide notification dated 9 March 2011, surcharge at the rate of 5 *per cent* on tax was also payable in respect of vehicles not paying lump sum tax.

During test check of records of RTO Jaipur, for the period 2011-12, it was noticed (December 2012) that special road tax in respect of 677 stage carriages, owned by Rajasthan State Road Transport Corporation (a fleet owner) was levied short due to under-valuation of cost of chassis of vehicles for the purpose of computation of special road tax.

Further, in respect of 10 stage carriages no special road tax was levied. This resulted in short levy of special road tax amounting to 5.27 lakh[1].

The omission was pointed out to the Department and reported to the Government (December 2012 and October 2013), their reply is awaited (February 2014).

[1]

(₹ in lakh)

S. No.	Model	Cost as per Audit	Cost adopted	Difference	No. of vehicles	Differential value
1	Ashok Leyland	11.84	11.65	0.19	665	126.35
2	Tata Model LP	11.53	11.38	0.15	12	1.80
3	Tata Model	11.68	-	11.68	10	116.80
	Total value					**244.95**
Tax + Surcharge leviable = 2.1525 *per cent* of differential value. Therefore, Special Road Tax = 244.95 lakh x 2.1525 *per cent* = ₹ 5.27 lakh.						

CHAPTER-IV

LAND REVENUE

CHAPTER-IV: LAND REVENUE

4.1 Tax administration

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

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

4.2 Trend of revenue

The budget estimates and actual revenue realised by the Department during the period 2008-09 to 2012-13 were as under:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of 3 to 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2008-09	145.01	162.52	(+) 17.51	(+) 12.08	14,943.75	1.09
2009-10	160.16	147.66	(-) 12.50	(-) 7.80	16,414.27	0.90
2010-11	185.06	222.17	(+) 37.11	(+) 20.05	20,758.12	1.07
2011-12	196.05	209.01	(+) 12.96	(+) 6.61	25,377.05	0.82
2012-13	233.91	304.55	(+) 70.64	(+) 30.20	30,502.65	1.00

The table above indicates that the variation between the BEs and actual collection ranged between (-) 7.80 *per cent* (2009-10) and (+) 30.20 *per cent* (2012-13). Fall of revenue during 2009-10 was mainly attributed to fewer receipts on account of conversion charges from the Urban Development Department (UDD) and sale of land. The increase in revenue collection during 2010-11 and 2012-13, was due to increase in receipts from sale of Government assets, waste land and more receipts under Other Receipts respectively.

The receipts from Land Revenue accounted for one *per cent* of the total tax receipts of the State during the year 2012-13, as against 0.82 *per cent* during 2011-12. Thus, there has been an erratic trend in collection of revenue under this head though the total tax receipts of the State continuously show an increasing trend.

4.3 Analysis of arrears of revenue

The following table depicts the position of arrears of revenue as on 31 March 2013:

(₹ in crore)

Year of arrear	Total arrears as on 1 April 2012	Recovery during the year 2012-13	Recoveries outstanding as on 31 March 2013
Upto 2007-08	53.67	1.79	51.88
2008-09	5.28	0.33	4.95
2009-10	5.03	0.84	4.19
2010-11	28.66	6.07	22.59
2011-12	38.61	10.86	27.75
Total	**131.25**	**19.89**	**111.36**

Source: Information provided by the Board of Revenue, Ajmer.

The arrears of revenue as on 31 March 2013 were ₹ 111.36 crore, of which ₹ 51.88 crore constituting about 46.59 *per cent* are more than five years old.

The chances of recovery of old outstanding arrears become remote with the passage of time.

The Government may take steps to pursue the realisation of arrears of revenue particularly the amount outstanding for more than five years.

4.4 Impact of Audit Reports

During the last five years, 19 paragraphs on non-levy/short levy, non-realisation/short realisation, underassessment/loss of revenue, incorrect exemptions, application of incorrect rate of tax, incorrect computation *etc.*, with revenue implication of ₹ 766.01 crore were pointed out in different Audit Reports. Of these, the Department had accepted audit observations in 12 paragraphs involving ₹ 615.57 crore and since recovered ₹ 95.65 crore (December 2013). The details are shown in the following table:

(₹ in crore)

Year of audit	Paragraphs included		Paragraphs accepted		Recovery	
	Number	Amount	Number	Amount	Number of paragraph	Amount
2007-08	5	260.68	4	196.05	3	76.64
2008-09	1	1.13	1	1.13	1	1.13
2009-10	3	180.01	3	117.55	2	9.92
2010-11	3	300.37	1	292.42	1	0.72
2011-12	7	23.82	3	8.42	2	7.24
Total	**19**	**766.01**	**12**	**615.57**	**9**	**95.65**

The Department has recovered only 15.53 *per cent* of the amount in respect of the paragraphs already accepted by it. The Department may take immediate steps for recovery of the amount pointed out in the audit reports particularly in the cases where the amounts have already been accepted.

4.5 Working of Internal Audit Wing

The Financial Adviser, BOR is the head of the Internal Audit Wing. There were 16 internal audit parties, each consisting of three members, which conducted audit of offices on annual basis. The position of number of units due for audit, number of units actually audited and number of units remaining unaudited during the period from 2008-09 to 2012-13 is as under:

Year	Units pending for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in *per cent*
2008-09	65	570	635	501	134	21
2009-10	134	570	704	532	172	24
2010-11	172	570	742	707	35	5
2011-12	35	624	659	589	70	11
2012-13	70	672	742	670	72	10

Source: Information provided by the Board of Revenue, Ajmer.

The Department stated that the arrear in audit was due to addition of new units during the year 2011-12 in the list of auditable entities and non-availability of man power due to leave, vacancy etc.

It was noticed that 19,700 paragraphs were outstanding at the end of 2012-13. Year-wise break up of outstanding paragraphs of internal audit wing is as under:

Year	Upto 2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	Total
Paras	9,317	904	1,041	1,508	2,382	4,548	**19,700**

Source: Information provided by the Board of Revenue, Ajmer.

9,317 paragraphs of internal audit wing pertained to period upto 2007-08 and with passage of time chances of recovery in old cases become remote.

The Government may take steps to ensure expeditious compliance with the outstanding observations raised by the Internal Audit Wing.

4.6 Results of Audit

During test check of the records of 15 units of Land Revenue Department conducted during the year 2012-13, Audit noticed non-recovery, loss of revenue *etc.* amounting to ₹ 635.50 crore in 8,662 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Performance audit on 'Encroachment on Government Land'	1	219.00
2.	Short recovery/non-recovery of premium and rent from Central/State Government Departments/Undertakings	2,030	245.67
3.	Short/non-recovery of conversion charges from '*Khatedars*'	1,040	11.09
4.	Non-disposal of *Nazul* properties	844	92.45
5.	Non-disposal of recovery cases received from various department under Section 256 and 257 of LR Act/ PDR Act/ RACO (ROD) Act[1]	4,498	52.05
6.	Other irregularities	249	15.24
Total		**8,662**	**635.50**

During the year 2012-13, the Department accepted underassessment and other deficiencies of ₹ 336.96 crore in 2,018 cases, of which 26 cases involving ₹ 24.36 crore were pointed out during the year 2012-13 and the rest in earlier years. The Department recovered ₹ 33.09 crore in 714 cases during the year 2012-13 which related to the earlier years.

After issue of draft paragraph, the Department recovered ₹ 9.12 lakh pertaining to three observations pointed out during 2012-13.

A performance audit on 'Encroachment on Government Land' involving ₹ 219 crore and a few illustrative audit observations involving ₹ 9.93 crore are mentioned in the succeeding paragraphs.

[1] LR Act- Land Revenue Act, 1956
PDR Act- Public Demands Recovery Act, 1952 and RACO (ROD) Act- Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act, 1974.

4.7 Performance Audit on 'Encroachment on Government Land'

Highlights

- 4,503 trespassers or their family members continued to encroach on the same pieces of Government land year after year, the total land encroached in 13 *tehsils,* aggregated to 5,726.77 hectares. Out of these, 1014 trespassers individually encroached land of five *Bighas* or more which worked out to 1805.92 hectares valuing ₹ 61.27 crore.

(Paragraph 4.7.8.1)

- In 56 cases of Mangrol *Tehsil*, penalty and auction value of crops amounting to ₹ 7.09 lakh for the period from 2007-08 to 2011-12 was yet to be recovered.

(Paragraph 4.7.9)

- In 156 cases of Kotputli *Tehsil*, there was no evidence of auction of seized crop valuing ₹ 27.79 lakh on 83.23 hectares of Government land.

(Paragraph 4.7.9)

- Department realised only ₹ 1.76 crore by auction of crops cultivated illegally on 11,099.97 hectares of Government land. Realisable value of the crop works out to ₹ 24.46 crore on the basis of Minimum Support Price and productivity per hectare.

(Paragraph 4.7.10)

- Due to non-regularisation of the wells constructed on Government land, revenue of ₹ 1.68 crore could not be realised.

(Paragraph 4.7.11)

- In Gangapur City *Tehsil*, 77.27 hectares of evacuee land valuing ₹ 2.12 crore was under continuous encroachment.

(Paragraph 4.7.13.2)

- Allotment of 49.9 hectares of encroached land valuing ₹ 1.34 crore was made to 128 trespassers at reduced cost of ₹ 21.59 lakh on the basis of incorrect facts.

(Paragraph 4.7.14)

- There was a loss of revenue amounting to ₹ 34.93 lakh on allotment of 8.63 hectares of Government land to trespassers on concessional rates due to application of incorrect rule in Banswara *Tehsil*.

(Paragraph 4.7.14)

- *Tehsildars* levied a penalties of ₹ 1.04 lakh against trespassers who had encroached upon valuable Government land valuing ₹ 160.66 crore for housing and commercial purpose.

(Paragraph 4.7.15.1)

- In 209 cases of Sojat City *Tehsil*, 111 trespassers had encroached upon 286.57 hectare of Government land valuing ₹ 3.82 crore since 1981-82 for growing *Mehandi* (henna).

(Paragraph 4.7.15.3)

- There were encroachments on 0.7128 hectare of Government land valuing ₹ 5.96 crore in Bhilwara *Tehsil* by various communities but no effective action was taken to evict them.

(Paragraph 4.7.16)

- In 101 cases of four *tehsils,* Government land was under encroachment for industrial use and penalty of ₹ 0.38 lakh was charged instead of ₹ 1.03 crore.

(Paragraph 4.7.17)

- In 29 cases of three *tehsils*, *Tehsildars* charged penalty of only ₹ 240 instead of ₹ 16.54 crore for Government land used for mining by trespassers.

(Paragraph 4.7.18)

- In 49 cases of three *tehsils*, *Tehsildars* charged penalty of ₹ 970 instead of ₹ 68.38 lakh from trespassers for establishing brick kiln on Government land.

(Paragraph 4.7.19)

4.7.1 Introduction

The Government land is managed under the provisions of the Rajasthan Land Revenue (RLR) Act, 1956 and rules made thereunder. As per Section 88 of the RLR Act all roads etc. and lands which are not the property of other belongs to the State and it is lawful for the Collector to dispose of them as per prescribed procedures/rules. The Collector is the principal land record officer of a district. He is further assisted by the SDOs at the sub-division level and by *Tehsildar/ Naib Tehsildar* at the *Tehsil* level.

Land, being a scarce and limited resource needs to be used efficiently by the State Government. Unauthorised occupation of Government land and its eviction is dealt with under Section 91 of the RLR Act, 1956, Section 22 of Rajasthan Colonisation (RC) Act, 1954 and Rajasthan Land Revenue (Eviction of Trespasser) Rules, 1975. Cases of encroachment against trespassers are, at first instance, either filed under Section 91 of RLR Act or under Section 22 of RC Act, 1954 on the report of *Patwari* and thereafter disposed of in the court of *Tehsildar/Naib Tehsildar* after affording an opportunity of being heard to trespassers.

The encroachments on Government land can broadly be bifurcated into two categories i.e. for agricultural and non-agricultural purposes. The non-agricultural encroachments are primarily for residential and commercial purposes. While conducting this performance audit, Government land other than those pertaining to Gram Panchayats or other local bodies, has been taken into consideration.

4.7.2 Organisational setup

The administrative powers of Department are vested in the Revenue Department (Department) of the Government of Rajasthan. The general superintendence and control over all revenue officers and revenue courts is vested in Board of Revenue (BOR), Ajmer.

The BOR is assisted by 33 Collectors at district level for management of land. Further, there are 242 SDOs at sub-division level and 244 *Tehsildars* at *Tehsil* level to assist the Collector.

4.7.3 Audit objectives

The Performance Audit was conducted to:

- ascertain the extent of encroachments on Government land;
- assess effectiveness of existing mechanism for prevention of encroachments on Government land;
- assess timeliness and effectiveness of eviction proceedings and action against the trespassers by the Department;
- examine regularisation of encroached land; and
- examine lacunae in the Acts or Rules for prevention of encroachments.

4.7.4 Audit criteria

The audit criteria for performance audit were derived from the provisions of the following Acts and Rules/ notifications issued thereunder:

- RLR Act, 1956
- Rajasthan Colonisation (RC) Act, 1954
- Rajasthan Tenancy Act, 1955
- Rajasthan Imposition of Ceiling on Agricultural Land Holding Act, 1973

4.7.5 Scope of audit

Records of 13 *tehsils*[2] (out of 244) along with records of concerned SDOs, Collectors and BOR, Ajmer for the years 2007-08 to 2011-12 were selected for detailed audit. The units were selected by adopting probability proportion to size with replacement (PPSWR) random sampling method. Records pertaining to encroachment and removal thereof maintained by *tehsils*, records pertaining to regularisation of encroachment cases maintained by SDOs and records relating to consolidated and other information pertaining to encroachment maintained by Collectors and BOR, were test checked between September 2012 and June 2013, while conducting the performance audit.

An Entry Conference was held on 19 November 2012 with the Principal Secretary, Revenue (PSR) and the Registrar, BOR wherein objectives of Performance Audit were explained. The Factual Statement/Draft Paragraph

[2] Aspur, Banswara, Bhilwara, Danta Ramgarh, Gangapur City, Kaman, Kotputli, Mangrol, Nokha, Rajgarh, Chaksu, Sojat City and Chomu.

was forwarded to the Government and BOR in October/December 2013. An Exit Conference was held on 24 January 2014 with the Principal Secretary, Revenue and the Registrar, BOR wherein the findings of Performance Audit were discussed.

The replies received during the Exit Conference and at other point of time have been appropriately commented in the relevant paragraph.

4.7.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the cooperation of the Revenue Department in providing necessary information and records for audit.

4.7.7 Trend of encroachments

As per the information provided by the BOR, Ajmer the position of encroachments and their disposal during the years 2007-08 to 2011-12 were as mentioned below:

Year	Opening Balance		Additions		Total		Cases disposed of		Closing Balance	
	No. of cases	Area under encroach-ment in hectares	No. of cases filed during the year	Area in hectares	No. of cases	Area in hectares	No. of cases	Area in hectares	No. of cases	Area in hectares
2007-08	19,425	22,035	3,08,408	1,66,557	3,27,833	1,88,592	3,00,593	1,63,103	27,240	25,489
2008-09	27,240	25,489	3,07,056	2,74,705	3,34,296	3,00,194	3,05,605	2,65,434	28,691	34,760
2009-10	28,691	34,760	2,59,042	1,63,161	2,87,733	1,97,921	2,59,655	1,70,597	28,078	27,324
2010-11	28,078	27,324	3,21,938	3,15,733	3,50,016	3,43,057	3,11,739	3,03,782	38,277	39,275
2011-12	38,277	39,275	3,55,330	2,86,845	3,93,607	3,26,121	3,55,909	2,80,035	37,698	46,086

As is evident from the above table 19,425 cases of encroachment involving 22,035 hectares of land were pending at the beginning of April 2007 whereas 37,698 cases involving 46,086 hectares of land were pending against the trespassers for encroachment on Government land at the end of March 2012. The cases pending for disposal had increased by 94.07 *per cent* and area under encroachment had increased by 109.15 *per cent*. There was an increase in number of cases registered against trespassers as well as in area of encroached land during 2011-12 as compared to 2007-08. In 2011-12, the number of cases of encroachment added was higher by 15.21 *per cent* when compared to 2007-08 and the area encroached during 2011-12 was higher by 72.22 *per cent* in comparison to 2007-08. The rate of disposal of cases was high but problems related to encroachments grew due to various reasons as discussed in the succeeding paragraphs.

Audit findings

A. Encroachment for agricultural purposes

4.7.8.1 Ineffective action on eviction of trespassers led to repeated encroachments on Government land

As per provisions of Section 91(1) of RLR Act, 1956 and Section 22 of RC Act, 1954 read with RLR (Eviction of Trespasser) Rules, 1975, any person who occupies or continues to occupy any land without lawful authority shall be regarded as a trespasser and may be summarily evicted therefrom by the *Tehsildar*.

Under Section 91(2), such trespasser shall further be liable to pay, for each agricultural year or any part thereof, which he has been in such unauthorised occupation, a penalty which may be extended to fifty times of the annual rent or assessment, as the case may be, for the first act of trespass. In the case of each subsequent act of trespass, he shall by the order of *Tehsildar*, be liable to civil imprisonment for a term which may extend up to three months besides payment of penalty to the extent mentioned above.

Section 91(6) prescribes that notwithstanding anything contained in sub-Section 91(2) whoever occupies any land without lawful authority or, having occupied such land before coming into force of the RLR (Amendment) Act, 1992, fails to remove such occupation within fifteen days from the date of service of a notice in writing calling upon him to do so by the *Tehsildar*, shall on conviction, be punished with simple imprisonment which shall not be less than one month but which may extend up to three years and with fine which may extend upto twenty thousand rupees.

During test check of *Dayara* Registers[3], *furd*[4] and other records relating to encroachment of selected *tehsils*, it was noticed that encroachments were made on a piece of land by the same person for agricultural purposes year after year. On scrutiny of 15,889 cases out of 94,098 cases of encroachments in selected 13 *tehsils*[5], for the period 2007-2012, it was found that 4,503 trespassers or their family members continued to encroach on the same piece of Government land aggregating to 5,726.77 hectares year after year for agricultural purpose. Out of these, 1,014 trespassers individually encroached land of five *Bighas*[6] or more which worked out to 1,805.92 hectares valuing ₹ 61.27 crore at the prevailing DLC rates. The *tehsils* had shown eviction of these trespassers in their records. However, repeated encroachments on the same land by the same

[3] *Dayara* Register is a register for keeping details of all encroachment cases.

[4] *Furd* is a case file of encroachment prepared by *Patwari*.

[5] Aspur, Banswara, Bhilwara, Danta Ramgarh, Gangapur City, Kaman, Kotputli, Mangrol, Nokha, Rajgarh, Chaksu, Sojat City and Chomu.

[6] *Bigha* is a unit for measurement of land area.

persons indicated that the eviction was ineffective. The trespassers year after year encroached on Government land flouting rules in this regard.

It was further observed that during 2007-12, in 1,561 cases in 9 *tehsils*[7] different trespassers encroached year after year upon 403.81 hectare Government land valuing ₹ 25.13 crore.

Further, there was clear violation of Section 91(2) of RLR Act which provides that in case of second or subsequent trespass, trespasser would be liable for civil imprisonment up to three months and Section 91(6) which provides for imprisonment of minimum one month and maximum three years besides fine up to ₹ 20,000 if trespasser does not remove the encroachment within 15 days from the date of notice served on trespasser for eviction. The penal provisions under Section 91 of RLR Act, 1956 were not being exercised by the *Tehsildars.* Consequently fine up to ₹ 9.00 crore was not imposed on 4,503 trespassers.

During Exit Conference, PSR stated that encroachment should not be considered as loss to the Government revenue as trespassers cultivate the land and make it more fertile and thereby contribute to national economy.

The reply is not tenable as the intent of legislature is clearly manifested in Section 91 of RLR Act, 1956 and action as laid down in the Act and Rules may be immediately implemented or else revenue due to Government will be lost.

4.7.8.2 Delay in reporting and disposal of cases

As per the Board circular dated 21 May 1997, the report of encroachments for *kharif* crop and *rabi* crop should compulsorily be submitted by *Patwari* by 15 August and 15 January respectively of each year in *Tehsil* office.

Kharif and *Rabi* seasons generally coincide with July-October and November-March respectively every year. In case of agricultural encroachments, there is no relevance of eviction order or order of seizure of the crop if the trespasser has utilised the encroached land for full crop season i.e. growing, cutting and removal of the crop to the market before eviction. From test check, however, it was noticed that there were delays ranging between 5 and 59 days in reporting the encroachments by *Patwari.* Similarly delays in issuing eviction orders after report of *Patwari* were ranged between 12 and 103 days and delay in actual auction from the date of order of auction ranged between 5 and 103 days in 40 cases of Bhilwara and Chomu *tehsils.*

During Exit Conference, PSR agreed that there were delays in reporting as well as in passing the eviction orders.

[7] Banswara, Bhilwara, Danta Ramgarh, Gangapur City, Kaman, Kotputli, Mangrol, Chaksu and Chomu.

4.7.9 Non-recovery of penalty and auction amount of crops

As per BOR's orders dated 19 October 1978 and Circular dated 16 November 1985,*Tehsildar/ Naib Tehsildar* has to ensure prompt disposal of encroachment cases by raising demand for penalty and ensure that recoveries are effected within one month from the date of order of eviction. It was noticed that the *Tehsildars* initiated eviction proceedings only after considerable delay and also failed to ensure prompt recovery from auction of confiscated crops. A few cases are explained in the following paragraphs:

- It was noticed from records of Mangrol *Tehsil* that in 56 cases, penalty and auction value amounting to ₹ 7.09 lakh for the period from 2007-08 to 2011-12 was yet to be recovered which includes the amount of ₹ 5.68 lakh pertaining to the period prior to 2011-12.
- It was also noticed in Mangrol *Tehsil* that though orders for eviction of trespassers from encroached land and auction of crops were given by *Tehsildar* in 146 cases relating to period 2007-12, yet the demand of auction value and penalty amounting to ₹ 5.59 lakh was neither shown as raised nor realised in demand register after auction of seized crop. No documents were found in the file to show remittance of sale proceeds received in auction in Government Account.
- Test check of records of Kotputli *Tehsil* disclosed that in 156 cases there was no evidence of auction of seized crop on 83.23 hectares of Government land and deposit of sale proceeds in Government Account during 2007 to 2009, which caused loss of ₹ 27.79 lakh.

During Exit Conference, PSR stated (24 January 2014) that reports on all the cases had been called for from the concerned Collectors, after receipt of which, detailed reply would be furnished. However, no reply has been furnished to audit (February 2014).

4.7.10 Loss of revenue due to incorrect method of auction

Section 91 of RLR Act, 1956 and Section 22 of RC Act, 1954 provide forfeiture and auction of crop grown on encroached land along with eviction and penalty. After forfeiture, the crop becomes the property of Government. In disposal of crops by way of auctioning as provided in Rules 18 and 21(iv) of General Financial and Accounts Rules, reserve price of stock should be fixed before auctioning.

While reviewing the records of encroachment, it was noticed in 13 *tehsils*[8] that no reserve price was fixed while auctioning the forfeited crops and the same were auctioned to trespassers or other persons at very nominal prices. Considering the token rates at which the crops were auctioned and the participation of the trespassers in the auction of the crop seized from them, the

[8] Aspur, Banswara, Bhilwara, Danta Ramgarh, Gangapur City, Kaman, Kotputli, Mangrol, Nokha, Rajgarh, Chaksu, Sojat City and Chomu.

possibility that the whole auction process was managed and undue favour was given to the trespassers, cannot be ruled out.

Test check of 13,639 out of 94,096 cases disclosed that the Department realised ₹ 1.76 crore by auction of crops cultivated illegally on 11,099.97 hectares of Government land. Scrutiny of the records disclosed that the *Tehsildars* did not fix any reserve price and crops were sold on the basis of highest auction bid. The cost of such crops calculated on the basis of the average productivity per hectare of various crops as informed by the Agriculture Department and minimum support price (MSP) fixed by the Government of India worked out to ₹ 24.46 crore.

During Exit Conference, PSR stated that it was very difficult to auction the crop in rural areas as villagers tend to unite and form a cartel and usually auction was done in favour of trespassers at low prices. Joint Secretary (Revenue) stated that MSP was not suitable for calculating the loss as the encroached land was usually poor in soil quality and was un-irrigated.

The reply is not correct as the Rules lay down that reserve price should be fixed and since this was not done that was a violation of the Rules. Further, the use of MSP to work out the cost of crops was only indicative in nature. In view of this it is suggested that Department fixes reserve price of crops each year so as to ensure transparency and maximisation of revenue from auction of crops.

4.7.11 Non-regularisation of wells constructed on Government land

As per Rule 12-A of RLR (Allotment of land for digging of wells and installing of pumping sets for irrigation purposes) Rules, 1979 as amended vide Notification dated 13 October 2009, if any person constructs a well or installs pumping set on unoccupied Government land or pasture land and proceedings against him have been initiated by the *Tehsildar* under Section 91 of the RLR Act, 1956, the Collector after making necessary enquiry arrives at the finding that the well has been constructed or pumping set has been installed for genuine irrigation or drinking water purpose and it does not adversely affect the interests of any person having land in the vicinity, may allot land, to such person on the conditions mentioned in Rule 7.
As per Rule 7, one-time lease money, equal to the price at the prevalent rates, recommended by the DLC constituted under Rajasthan Stamp Rules, 2004 will be charged for allotment of land for 20 years for digging of wells and installing of pumping sets for irrigation purposes.

During test check of records of eight *tehsils*[9], it was noticed that 393 cases were registered against 324 trespassers for constructing wells on Government land covering area of 10.91 hectares during 2007-12. However, the Collector or any authorised officer had neither allotted the land to the trespassers nor removed the encroachments. Due to non-regularisation of these wells, trespassers were

[9] Bhilwara, Danta Ramgarh, Gangapur City, Kotputli, Rajgarh, Chaksu, Sojat City and Chomu.

using these wells without paying the cost of Government land which worked out to ₹ 1.68 crore as per current DLC rates.

During Exit Conference, PSR stated that officials would be directed to take prompt action for regularisation of wells.

4.7.12 Non revision of *lagan* rates

The settlement operations are undertaken for fixation of rent taking into account the rent collected during last twenty years, average of the prices of agricultural produce prevailing during the twenty years, soil classification, nature of the crops grown, production potentiality of land, value of the crops grown and expenses incurred in producing crops as envisaged in Section 152 of RLR Act, 1956. As per Section 175 of RLR Act, 1956 the term of settlement for all districts is 20 years. However, Government may increase or decrease the term of settlement in certain circumstances. Further, as per Section 108 of Rajasthan Tenancy Act, 1955, when rent rates or *lagan*[10] for a particular area or a part of that area has been fixed then it will not be changed before next settlement. However, Government may revise these rates if there is fluctuation in rates of agricultural produce.

Test check of the records disclosed that the rate of *lagan* was not revised for more than 20 years due to settlement operations not having been undertaken in any of the selected *tehsils*. As a result, the rate of *lagan* was not revised for more than 20 years. As per Section 91 of RLR Act, 1956 and Section 22 of RC Act, 1954 penalty leviable on trespasser was 50 times the annual rent or assessment i.e. *lagan*. As the *lagan* rates remained static for years, the penalty which was to be decided based on *lagan* also remained unchanged. The penalty has thus become nominal and lost its significance with passage of time as would be seen from the succeeding paragraphs from 4.7.14 to 4.7.19.

BOR in its reply (January 2014) suggested that penalty should be linked with DLC rates to demoralise the trespassers.

The matter was reported to the Government (December 2013). Reply is awaited (February 2014).

4.7.13 Management of Government Property

4.7.13.1 Non-maintenance of Register relating to *siwai chak* land

As per para 24 of Revenue Accounts Manual, 1972 issued by the BOR a register in Form 14 is to be maintained by Office of *Tehsildar* from the beginning of each crop year for keeping records pertaining to *Siwai chak*[11] land and natural crops, if any, on such land. Maintenance of such register was also important to identify and prevent any encroachment on such land.

During test check of records of selected *tehsils*, it was noticed that registers relating to land which was not occupied by any person and details of auction of crops naturally grown on that land, were not maintained by the Department. In absence of such registers, utilisation of natural crops for personal gain and possible encroachment on such land could not be ruled out.

[10] *Lagan* is rent payable towards the use of agriculture land.
[11] *Siwai chak* indicates government land which is available for allotment for agricultural purpose.

The matter was reported to the Government (December 2013). Reply is awaited (February 2014).

4.7.13.2 Non-management of Evacuee Property

Agricultural lands of Muslim evacuees situated in the State were declared as evacuee property under then Administration of Evacuee Property Act, 1950 (Central Act 13 of 1950). However, the act was repealed in 2005. In view of that, the State Government vide cabinet order dated 22 May 2008 decided that evacuee land which had not been allotted would be recorded as *Siwai chak* in the Revenue records and such land would be disposed of by Revenue Department or Colonisation Department as per rules.

During test check of the records of *Tehsil*, Gangapur City, it was noticed that 77.27 hectares of evacuee land valuing ₹ 2.12 crore in Pawata and Mahanandpur Dodiya villages was under encroachment. The date from which the land was under encroachment was not available in the records. No efforts were found to have been made by the *Tehsildar* either to evict or to regularise the encroachments. It was further noticed that despite clear orders to include the evacuee land as *Siwai chak* in the Government records, two hectare land valuing ₹ 7.49 lakh was yet to be recorded as *Siwai chak* in the Government records by the *Tehsildar*.

During Exit Conference, PSR stated that evacuee property would be recorded as *siwai chak*.

4.7.14 Regularisation of encroachments

As per Rule 20 of the RLR (Allotment of Land for Agricultural Purposes) Rules, 1970, the SDO, on the advice of the Land Allotment Advisory Committee (Advisory Committee), instead of ejecting a trespasser from any land occupied by him without any lawful authority, may allow him to retain such land if he is a landless agriculturist and the total area of land held by such person including the land so allotted does not exceed four hectares.

The State Government order dated 11 January 2008 allowed allotment of land up to four hectares to trespasser having continuous encroachment since 1 January 2000 at no cost in non-command area. In the command area of Banswara *Tehsil*, land up to six acre could be regularised after charging concessional cost under Rule 14-A of Rajasthan Colonisation (Mahi Project Government Land Allotment and Sale) Rules, 1984. Further, in Pali, a desert district, the SDO may allow the trespasser to retain excess land up to 2.5 hectares on payment as described in the rule but under overall limit of six hectares. As per Rule 20 (1) of RLR (Allotment of Land for Agricultural Purposes) Rules, 1970 in Pali district regularisation of encroached land in excess of prescribed limit of four hectares could be done in favour of trespasser of general category by charging 50 per cent of prevailing market price of neighbouring agricultural land.

The Department vide order dated 6 December 2001 clarified that if initially a person had made encroachment and in succeeding years encroachments were made by his son etc. then it would be assumed that encroachment was made by the family. Further, while regularising such encroachment, the land would be allotted jointly to family.

During test check of the records of selected *tehsils*, it was noticed that in eight *tehsils*[12] regularisation of agricultural encroachment had not taken place during the period 2007-12. The findings of three out of remaining five *tehsils* are given below:

- In three *tehsils*[13], 169 cases of regularisation of encroachments had taken place during 2007-08 to 2011-12. Scrutiny of records disclosed that out of these 169 allotments to trespassers, 128 trespassers were allotted land on the plea that these trespassers had continuous encroachment for the last 10 years. However, audit scrutiny of the records furnished by the concerned *Patwaris/Tehsildars* disclosed that in 83 cases, no continuous encroachments were found to have taken place during the last 10 years by trespassers. In the remaining 45 cases, scrutiny of *Dayara* registers

[12] Danta Ramgarh, Kaman, Kotputli, Mangrol, Nokha, Rajgarh, Chaksu and Chomu.
[13] Bhilwara, Banswara and Sojat City.

disclosed that the trespassers were shown to be evicted each year by the *Tehsildar*. Therefore, in these 128 cases there was no continuous encroachment since the year 2000 and therefore allotment of encroached land of 49.9 hectares at reduced cost of ₹ 21.59 lakh was incorrect as it was against the State Government order dated 11 January 2008. The value of the land as per DLC rates was ₹ 1.34 crore.

The matter was reported to the Government (December 2013). Reply is awaited (February 2014).

As per rule 14-A of Rajasthan Colonisation (Mahi Project Government Lands Allotment and Sale) Rules, 1984, land can be regularised in favour of a trespasser on prescribed rates subject to procedure laid down therein. As per notification dated 8 May 2001, 30 *per cent* of DLC rates were chargeable in case of General Category while 15 *per cent* of DLC rates were to be charged for special category persons.

- During test check of allotment files at Banswara *Tehsil*, it was noticed that 8.63 hectares of Government land valuing ₹ 37.62 lakh was allotted to 24 trespassers at ₹ 2.69 lakh on concessional rates under Rule 14 of Rajasthan Colonisation (Mahi Project Government Lands Allotment and Sale) Rules, 1984 whereas these cases of trespassing should have been regularised under rule 14-A. This resulted in loss of revenue amounting to ₹ 34.93 lakh.

- During test check of records of encroachment in Bhilwara *Tehsil* (village Soupura) it was noticed that a trespasser encroached 0.76 hectare of land in 2009-10. Instead of taking action against the trespasser under Sections 91(2) and 91(6) of RLR Act, 1956, the above land valuing ₹ 1.16 lakh was allotted (21 December 2010) free of cost by the SDO on the recommendations of Advisory Committee. The grant of land free of cost was incorrect as the trespasser had occupied the land illegally and cost of land at DLC rates should have been recovered. After being pointed out, SDO, Bhilwara replied that this land was allotted in lieu of 0.55 hectare land surrendered by trespasser for school. The reply is not acceptable as surrender of land is a separate matter and cost of land should have been levied on allotment of land as per rules.

- During test check of records of Sojat City *Tehsil*, it was noticed that in two cases, land measuring 1.17 hectare and 0.52 hectare were allotted (January 2008) to the sons of trespassers in Sardarsamand and Rayarakalan village respectively, considering that initially these lands were encroached by their fathers since 2001. As such, while regularisation of the encroached land it should have been allotted in the joint name of the families. However, it was noticed that fathers of trespasser's already owned land measuring 7.2 hectares and 4.32 hectares which together was more than the prescribed limit of 6 hectares. As such allotment of 1.69 hectares land to trespassers was irregular as per Rule 20 (1) of RLR (Allotment of Land for Agricultural Purposes) Rules, 1970 and resulted in loss of ₹ 2.33 lakh at the prevailing DLC rates.

BOR in its reply, agreed (January 2014) that the tendency of regularisation of land encroached by trespassers should be discouraged.

During Exit Conference, PSR stated that Government considered all encroachments to be continuous if they were reported so year after year in crop seasons for stipulated period of time.

The reply is not acceptable as *Tehsil* records showed eviction after each crop season and therefore it was incorrect to say that trespassers were in continuous possession of land. Further, such regularisation of encroachments without a fair and transparent mechanism encourages trespassing rather than benefitting the deserving landless farmers.

B. Encroachment for non-agricultural purposes

4.7.15 Unauthorised use of Government land for housing and commercial purpose

4.7.15.1 During test check of records of 13 *tehsils*[14], it was noticed that 3,398 trespassers encroached upon 22,78,622 sqm of Government land and constructed houses and commercial structures. It was noticed that the concerned *Tehsildars* levied penalty of ₹ 1.04 lakh against these trespassers though they had encroached upon Government land valuing ₹ 160.66 crore.

It was further noticed that there was no provision in the RLR Act, 1956 regarding assessment of penalty in cases of encroachment on Government land for housing and commercial purpose. The *Tehsildars,* therefore, levied penalty on the basis of assessment of rent on agricultural land and the trespassers thus paid meagre penalty. These permanent structures in the form of houses and shops remained intact and no action was taken by the *Tehsildars* and *Patwaris* against them.

During Exit Conference, PSR stated that with the increase in population, there is pressure on *abadi* land[15] because of which people were constructing houses on Government land near *abadi* areas and Government is considering relaxation of rules for regularising residential encroachments. Till such time that orders are issued by Government, the extant Rules are applicable and the trespassers need to be evicted.

4.7.15.2 On scrutiny of records of *Tehsil*, Aspur it was noticed that *Gram Panchayat,* Aspur irregularly allotted 270.12 sqm of Government land (*Gair Mumkin Rasta)* to 49 shopkeepers in 2004. The *Tehsildar* did not take any action against the encroachments except recording the same in the *Dayara* register under Section 91 of RLR Act during 2004 to 2009. Neither were entries made in the *Dayara* register after 2009 nor was any action taken against encroachers of the Government land.

The matter was reported to the Government (December 2013). Reply is awaited (February 2014).

[14] Aspur, Banswara, Bhilwara, Danta Ramgarh, Gangapur City, Kaman, Kotputli, Mangrol, Nokha, Rajgarh, Chaksu, Sojat City and Chomu.
[15] Means residential land.

4.7.15.3 During test check of records of Sojat City *Tehsil*, it was noticed that in 209 cases, 111 trespassers had encroached 286.57 hectare Government land valuing ₹ 3.82 crore since 1981-82 as per the prevailing DLC rates. The land was being used for growing *Mehandi*[16] (henna) which is a permanent and commercial crop. It was noticed that instead of taking effective action against trespassers under Section 91(2) and (6) of RLR Act, 1956, the Department imposed only token amount of penalty on the basis of *lagan*. In the absence of details, audit could not assess the value of the crop.

The matter was brought to the notice of the Department (October 2013) and reported to the Government (December 2013), their reply is awaited (February 2014).

4.7.16 Encroachment by various communities, private school *etc.*

During test check of records of selected *tehsils*, it was noticed that Government land was encroached by various persons, bodies and institutions for personal and social purposes with construction of permanent structures. However, the structures were not demolished and the areas were not vacated for years together. Some of the cases are discussed in the succeeding paragraphs:

- During test check of records of Bhilwara *Tehsil*, it was noticed that six cases of encroachment on 0.71 hectare Government land valued at ₹5.96 crore were reported by the *Patwari* in the year 2011. The details of the encroachments are shown below:

Sl. No.	Name of the trespasser	Area (in *Bigha*)	Area (in hectares)	Value of land[17] (₹ in lakh)	Type of encroachment
1	Chairman , Saraswat Samaj	1.05	0.1701	142.34	Nohara
2	Chairman, Pareek Samaj	0.75	0.1215	101.67	Hostel
3	Chairman, Goswami Samaj	0.25	0.0405	33.89	Nohara
4	Chairman, Sukhwal Samaj	1.50	0.2430	203.34	Nohara
5	Chairman, Gurjar God	0.60	0.0972	81.33	Nohara
6	Chairman, Dadhich Samaj	0.25	0.0405	33.89	Boundary Wall
Total		**4.40**	**0.7128**	**596.46**	

The trespassers had made permanent structures on Government land along with boundary walls. Though the illegal constructions and encroachments were in close proximity to the main city of Bhilwara, no action was taken by the *Tehsildar* to evict the trespassers and demolish the illegal constructions.

- In Barodiya village of Kotkhawada Sub-tehsil of Chaksu *Tehsil*, encroachment on 9,688 square yard Government land, valuing ₹ 1.46 crore was made by a private school since March 2010. The *Tehsildar* did not make any efforts to evict the trespasser.

[16] Mehandi is an agricultural produce known as henna.

[17] As per DLC rate, value of land is 778 per sqft i.e. ₹ 8,36,77,686 per hectare.

- As per rule 3 of RLR (Allotment of Land to *Gaushalas*) Rules, 1957, a *Gaushala* which is registered under the Rajasthan Societies Registration Act, 1958 and Rajasthan *Gaushala* Act, 1960 and maintains at least fifty heads of cattle can apply for Government land for grazing its cattle. The Collector of concerned district can allot land up to 25 hectares on lease for 20 years after making necessary enquiry. The rent chargeable is one-fourth of the rent assessed at the current settlement or ₹ 160 per hectare per annum if the land was unassessed. During test check of records of Danta Ramgarh and Chomu *tehsils*, it was noticed that 11.42 hectare Government land valuing ₹ 1.92 crore was encroached by five trespassers without any permission or filing any application for allotment of Government land for *Gaushalas*. Each year the Department had been showing the land as being evicted from these trespassers without actual physical eviction and without taking stern action against the trespassers.

  It was also observed that as per RLR (Allotment of Land to *Gaushalas*) Rules, 1957, annual rent of ₹ 2043 was chargeable and as such penalty amounting to ₹ 1.02 lakh could have been recovered but the *Tehsildar* charged ₹ 0.04 lakh as penalty.

During Exit Conference, PSR agreed that penal provisions relating to unauthorised use of Government land for non-agricultural purposes need to be relooked into.

4.7.17 Encroachment for Industrial use

As per Rule 5 of Rajasthan Land Revenue (Industrial Land Allotment) Rules, 1959, annual rent ranging between ₹ 0.50 to ₹ 1 per square metre for allotment of Government land for industry has to be derived according to population of that area. Further, as per section 91(2) of RLR Act, 1956, penalty up to 50 times of annual rent was leviable for the first act of trespassing.

During test check of records of four *tehsils*[18] it was noticed that the trespassers managed to set up industries but no action for timely eviction or prevention of encroachment was taken by the concerned *Tehsildars* and other authorities. The *Tehsildars* charged meagre penalty amount as per the RLR Act by deriving it on the basis of *lagan* instead of the rent chargeable under the Rajasthan Land Revenue (Industrial Land Allotment) Rules, 1959. The *Tehsildars* completed the formalities on papers by charging the penalty. However, the encroachments were shown vacated only on records and the industries continued to operate. The cases are illustrated below:

- In 31 cases of Sub-*tehsil* Hameergarh of Bhilwara *Tehsil,* the trespassers laid pipeline on Government land between 2008-09 and 2011-12 for water supply to the industries from the wells of *Khatedars.*[19] *Naib Tehsildar* in 4

[18] Bhilwara, Chomu, Kotputli and Sojat City.
[19] Khatedar is a special type of tenant, who has certain rights and obligations over the agricultural land occupied by him.

cases charged penalty equal to 50 time of *lagan*, while in 27 cases charged 50 *per cent* of DLC rates for agriculture land. In 70 cases of the remaining three *tehsils*, the industries were set up illegally between 2006-07 and 2011-12 on Government land. Thus, ₹ 0.38 lakh were charged in these cases, whereas penalty upto 50 times of rent chargeable under RLR (Industrial Land Allotment) Rules, 1959 which amounted to ₹ 1.03 crore should have been levied.

- In 16 cases, the *Patwari* reported (between 2008 and 2010) that chemically polluted water was drained in 68.75 *Bighas* of Government land by the Industrial Units which polluted the land. In 3 cases the proceedings were dropped on further report of *Patwari*, in 7 cases, court stays were obtained by the concerned Industrial Units and in remaining 6 cases, nominal penalty on the basis of *lagan* was imposed. Scrutiny of *Patwari* and *Tehsil* records disclosed that no efforts were made to vacate the stay in cases where stays were obtained.

During Exit Conference, PSR agreed that penal provisions relating to unauthorised use of Government land for non agricultural purposes need to be relooked into.

4.7.18 Unauthorised use of Government land for mining

As per the Rule 19 of Rajasthan Mine and Mineral Concession (RMMC) Rules, 1986, for mining activity, the lessee shall pay surface rent for the used area which will be equal to the land revenue payable under the RLR Act, 1956 or any other law in force. As per Section 39 of Rajasthan Finance Act, 2006 land tax and/or surface rent will be charged maximum up to the 10 *per cent* of market value of the land for the land used for purpose other than the land held or used exclusively for agricultural or residential purpose or an urban land as defined in the Rajasthan Land and Building Tax Act, 1964 or an *abadi* land as defined in Section 103 of the RLR Act, 1956. Further, penalty upto 50 times of annual rent was leviable for the first act of trespassing.

During test check of records of *Kaman*, *Chaksu* and *Kotputli tehsils* it was noticed in 29 cases that trespassers made unauthorised use of Government land measuring 1.84 hectares for mining purpose. The *Patwari* did not give any details *viz*. name of the minerals, quantity excavated etc. The *Tehsildars* also did not inform the facts of illegal mining to the concerned mining offices in the district for determination of surface rent, royalty and penalty thereon. As per the RMMC Rules, 1986, the recoverable rent from trespassers worked out to ₹ 33.07 lakh. However, the concerned *Tehsildars* charged penalty of only ₹ 240 from the trespassers. The penalty on the basis of rent chargeable at the rate of 10 *per cent* of market value of the land worked out to ₹ 16.54 crore.

During Exit Conference, PSR agreed that penal provisions relating to unauthorised use of Government land for non-agricultural purposes need to be relooked into.

4.7.19 Unauthorised use of Government land for Brick Kiln Industry

As per Rule 8 of RLR (Allotment of Land for Establishment of Brick Kiln) Rules, 1987, the rate of rent shall be ₹ 1,500 per *acre* per annum for establishment of brick kiln. Under Section 91(2) of RLR Act, 1956, penalty upto 50 times of annual rent was leviable for the first act of trespassing.

During test check of records of Bhilwara, Chaksu and Aspur *tehsils* it was noticed that in 49 cases trespassers encroached 91.17 acres of Government land for brick kiln industry. It was noticed that no penalty was imposed on the trespassers by the concerned *Tehsildars* except by *Tehsildar*, Bhilwara who imposed a meagre penalty of ₹ 970. Had the *Tehsildars* applied the rate as per the Rule 8 of RLR (Allotment of Land for Establishment of Brick Kiln) Rules, 1987, penalty amounting to ₹ 68.38 lakh should have been recovered. The penalty would have also acted as a deterrent against the trespassers.

During Exit Conference, PSR agreed that penal provisions relating to unauthorised use of Government land for non-agricultural purposes need to be relooked into.

4.7.20 Encroachment made by Government Employees

As per Rule 4-C of Rajasthan Civil Services (Conduct) Rules, 1971, any Government Servant who is involved in or makes any encroachment on the Government Land on or after 15 August 1998 shall be liable to disciplinary action.

In two cases in Mangrol *Tehsil* and Banswara *Tehsil* each encroachments by Government employees on 1.26 hectares of Government land valuing ₹ 63.29 lakh during 2006 to 2009 were found. The *Tehsildars* did not take any effective action for eviction of these trespassers and also did not inform their concerned Departments.

The matter was brought to the notice of the Department (October 2013) and reported to the Government (December 2013), their reply is awaited (February 2014).

4.7.21 Conclusion

There was an increase in the number of cases registered against trespassers on encroached land during 2011-12 as compared to 2007-08. Documentation and record keeping of encroachment cases was deficient. The *Tehsildars* did not take effective action to safeguard the Government land and prevent the encroachments. As a result, trespassers encroached land for agricultural, residential and commercial purposes for years together. However, the *Tehsildars* were not able to vacate the Government land other than mere entry in the *Dayara* registers. The agricultural encroachments were shown to be vacated at the end of crop season but the same piece of land was occupied in the next crop season by the same trespasser or by other persons. The trespassers thereby continued their firm hold on Government land. The process

of auction of produce grown on encroached Government land was not based on reserve price. Permanent encroachments in the form of residential, commercial and industrial purposes were not vacated by the *Tehsildars*. Further the extant penalty provisions of RLR Act are linked with *lagan* rates which have lost significance due to non revision of such rates.

4.7.22 Recommendations

The Government may consider:

- **taking timely and strong deterrent action against repeated encroachments on the same land by the same person so that tendency to trespass the Government land is curbed;**
- **evolving a mechanism prescribing the reserve price of crops cultivated illegally on Government land before auctioning the same;**
- **regularising wells constructed on Government land in deserving cases;**
- **reviewing the penal provisions and prescribing separate penalty for trespassing for agricultural, residential and other purposes, fixing a minimum penalty and by delinking it from *lagan* rates, which has lost its significance due to non-revision of such rates;**
- **issuing suitable guidelines for regularisation of encroachment cases so that existing provisions are followed scrupulously without any deviation;**
- **framing a policy to deal with encroachment cases which are not meant for the benefit of an individual but for benefit of the community as a whole; and**
- **taking necessary action against *Patwaris* and *Tehsildars* who fail to prevent encroachments for industrial and commercial purposes as once such permanent encroachment is made, it becomes increasingly difficult to get the land vacated.**

4.8 Audit observations

During test check of records of the Land Revenue Department, Audit observed short recovery of revenue, non-remittance of share and interest into Government account by the Urban Improvement Trusts (UIT). It was also observed that charges for conversion of land use from agriculture to non-agricultural purposes were not recovered from the applicants. These cases are illustrative only as these are based on a test check of records. There is a need for the Government to improve the internal control system including strengthening of internal audit in order to avoid recurrence of such cases.

4.9 Non-compliance of provisions of Rules/Circulars

The Rajasthan Land Revenue Act, 1956 and the various rules made thereunder along with notifications of the Government provide for land allotment, land use and conversion of land.

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

4.10 Non-recovery of conversion charges

As per Rule 7 of Rajasthan Land Revenue (RLR) (Conversion of Agricultural Land for Non- agricultural purposes in Rural Areas) Rules, 2007, premium for conversion of agricultural land for non-agricultural purpose was to be charged as under:

Purpose	Rate of premium
Industrial	₹ 5 per square metre or 5 *per cent* amount of District Level Committee (DLC) rate of agricultural land, or 5 *per cent* amount of the purchase rate of that agricultural land as mentioned in registered sale deed, if any, whichever is higher.
Commercial	₹ 10 per square metre or 10 *per cent* of DLC rate of agricultural land or 10 *per cent* amount of the purchase rate of agricultural land as mentioned in registered sale deeds, if any, whichever is higher.
Institutional	₹ 5 per square metre or 10 *per cent* of DLC rate of agricultural land or 10 *per cent* amount of the purchase rate of agricultural land as mentioned in registered sale deed, if any, whichever is higher.

Further, under Rule 13, four times the amount of conversion charges is leviable if the land is used for non- agricultural purpose without permission for conversion from the prescribed authority.

4.10.1 During test check of records of Collector Hanumangarh, it was noticed (August 2012) that *khatedari*[20] land was used for industrial purpose for establishment of *brick kiln* without conversion of the land in 159 cases. No action was initiated by the department to recover the premium for conversion at the rate of four times the conversion charges.

This resulted in non-recovery of premium for conversion of land amounting to ₹ 7.82 crore as detailed below:

(₹ in lakh)

Sl. no.	Name of *Tehsil*	No. of cases	Area[21] (Square metre)	One time conversion charges	Four times conversion charges
1	Hanumangarh	73	1961570	98.08	392.32
2	Nohar	4	127720	6.38	25.52
3	Bhadra	54	1164250	58.21	232.84
4	Sangria	28	657503	32.88	131.52
Total		**159**	**3911043**	**195.56**	**782.20**

[20] *Khatedari* land means land given by the Government on *lagan* or rent exclusively for agriculture purpose.
[21] Actual DLC of the brick kiln site not ascertainable, hence calculation done @ of ₹ 5/- per sqm.

4.10.2 During test check of records of Collector Jhalawar, it was noticed (July 2012) that *khatedari* land was used for industrial purpose for establishment of 5 units of stone crusher, 66 mobile towers and 1 manufacturing industry without conversion of the land. No action was initiated by the department to recover the amount at the rate of four times the conversion charges. This resulted in non-recovery of premium amounting to ₹ 11.57 lakh.

4.10.3 During test check of records (August 2012) of Collector Jhunjhunu, it was noticed that in 18 cases *khatedari* land was used for educational purpose without conversion of agricultural land for non agricultural purpose. This resulted in non recovery of premium amounting to ₹ 17.40 lakh.

The matter in all the above cases were brought to the notice of the Department (April to June 2013) and reported to the Government (November 2013). The Government replied (February 2014) that ₹ 18.37 lakh and ₹ 3.46 lakh had been recovered in Hanumangarh and Jhunjhunu respectively.

4.11 Non-remittance of share and interest into Government account

The Government of Rajasthan (Urban Development Department) issued instruction in August 2001 that the regularisation/transfer/ conversion charges received by the local bodies for regularisation of agricultural land for non-agricultural purpose were to be credited initially in the personal deposit account of local bodies and thereafter 40 *per cent* share was to be remitted to Government account by 5th of next month. It was further decided (March 2007) that interest at the rate of 12 *per cent* per annum would be recovered for delayed remittance of 40 *per cent* share into Government Account.

During test check of records of Collector Kota, it was noticed (July 2012) that Urban Improvement Trust (UIT), Kota collected charges amounting to ₹ 2.94 crore from April 2011 to March 2012 for regularisation of agricultural land for non-agricultural purposes out of which 40 *per cent* Government share amounting to ₹ 1.18 crore was to be deposited into Government account by 5th of the next month, but the same has not been deposited into Government account till date. This resulted in non-recovery of ₹ 1.18 crore. Besides, interest of ₹ 4.75 lakh (upto March 2012) was also due for deposit in Government account.

The matter was brought to the notice of the Department (May 2013) and reported to the Government (November 2013). Their reply is awaited (February 2014).

4.12 Non-reversion of land and loss of revenue

Under Rule 3(ii) (b) of Rajasthan Land Revenue (Allotment of Unoccupied Government Land for Construction of Schools, Colleges, Dispensaries, *Dharamshalas* and other buildings of Public Utility) Rules, 1963, allotment of land to non-Government institutions shall be made at a premium equivalent to 50 *per cent* of the index price fixed for registration purposes. As per Rule 3(ii) (c), if the land allotted is in excess of the maximum limits prescribed in clause 2, the premium for the excess area shall be made equivalent to the market rate of the land to be determined according to the index price fixed for registration purposes. Further, proviso below Rule 3(d) provides that no premium will be charged if the allotment of land is made to a non-Government institution for the purpose of educational, social or economic upliftment of women. Rule 3 (vii) provides that in the event of any breach of conditions, the land shall revert to the State Government along with construction thereon without any claim for compensation.

During test check of records of District Collector Sikar, it was noticed (February 2013) that 4.13 hectare land situated on NH 11 at village Ghasu Ka Bas (Laxmangarh) was allotted (December 2004 and November 2007) free of cost to Karmabai Education and Research Institution, a private institution exclusively meant for girls' education.

On further scrutiny of the records of Block Primary Education Officer, Laxmangarh, it was found that 503 boy students upto eighth standard were given admission in the school during 2007-08 to 2012-13, which was in breach of the terms and conditions of allotment of land, as the land was allotted free of cost only for girl's education. The Institute used the land unauthorisedly causing loss of premium of ₹ 45.84 lakh. Despite breach of allotment conditions no action was taken to revert the land to the Government.

The matter was brought to the notice of the Department (May 2013) and reported to the Government (October 2013). The Department accepted (February 2014) the facts and stated that the case had been referred to the Government for cancellation of allotment of land. The reply of Government is awaited (February 2014).

4.13 Short recovery of cost of land and lease rent due to incorrect application of DLC rates

As per Government's Notification (October 2005) if the land is allotted to specified department/Corporation/ Institutions, premium (cost) will be charged equivalent to the prevailing market price of the same class of agricultural land situated in the neighborhood, as decided by the Collector in the DLC. Further 10 *per cent* lease rent of the cost of land is also payable per year. By issue of another notification dated 26 March 2012 Government increased the DLC rates by 10 *per cent* with immediate effect.

During test check of records of Collector Alwar, it was noticed that Government land at village Pur, *Tehsil* Kotkasim, District Alwar measuring 3.16 hectares was allotted (29 March 2012) to Rajasthan Rajya Vidyut Prasaran Ltd. for 99 years on lease basis.

On scrutiny, it was noticed that the Department recovered the cost of land as per incorrect application of old DLC rates instead of revised rates as per notification dated 26 March 2012 and also levied lease rent accordingly. This resulted in short recovery of ₹ 11.66 lakh for cost of land and lease rent of ₹ 1.17 lakh for one year.

The matter was brought to the notice of the Department (April 2013) and reported to the Government (October 2013). The Government replied (September 2013) that the demand had been raised for the year 2012-13 after increasing DLC rate by 10 *per cent*.

CHAPTER-V

STAMP DUTY AND REGISTRATION FEE

CHAPTER-V: STAMP DUTY AND REGISTRATION FEE

5.1 Tax administration

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

The Secretary, Finance (Revenue) is responsible for determination of policy, monitoring and control at the Government level in connection with SD & RF. The Inspector General, Registration and Stamps is the head of the Registration and Stamps Department. He is assisted by an Additional Inspector General in administrative matters and by a Financial Adviser in financial matters. Besides this, one Additional Inspector General, Jaipur is entrusted with the work of Chief Vigilance Officer. The entire State has been divided into 13 circles. Of these, 11 circles are headed by Deputy Inspector General (DIG) cum *ex officio* Collector (Stamps) and the two remaining circles are headed by Additional Collector (AC) (Stamps) and Additional Deputy Inspector General (Vigilance). There are 33 District Registrars (DRs), 89 Sub-Registrars (SRs) and 304 *ex officio* SRs[1].

5.2 Trend of receipts

Actual receipts from SD and RF during the years 2008-09 to 2012-13 along with the total tax receipts of the State are exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actual SD & RF receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of 3 to 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2008-09	1,575.00	1,356.63	(-) 218.37	(-) 13.86	14,943.75	9.08
2009-10	1,450.00	1,362.94	(-) 87.06	(-) 6.00	16,414.27	8.30
2010-11	1,750.00	1,941.07	(+) 191.07	(+) 10.91	20,758.12	9.35
2011-12	2,500.00	2,651.38	(+) 151.38	(+) 6.06	25,377.05	10.45
2012-13	3,300.00	3,334.87	(+) 34.87	(+) 1.06	30,502.65	10.93

The variation between the Budget Estimates and Actuals was (-) 13.86 *per cent* in 2008-09 and 10.91 *per cent* in 2010-11. After a drop of its share in the total tax receipts of the State in 2009-10, actual SD and RF receipts have shown a rising trend in the subsequent years.

[1] *Tehsildars* and *Naib Tehsildars* of the stations have been declared as *ex officio* SRs.

5.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 amounted to ₹ 203.10 crore, of which ₹ 69.97 crore constituting about 34.45 *per cent* were more than five years old. The following table depicts the position of arrears of revenue upto 2012-13.

(₹ in crore)

Year of Arrear	Total arrears as on 1 April 2012	Recovery during 2012-13	Recoveries outstanding as on 31 March 2013
Upto 2008-09	93.38	23.41	69.97
2009-10	14.84	0.17	14.67
2010-11	24.79	3.85	20.94
2011-12	37.95	11.82	26.13
2012-13	99.21	27.82	71.39
Total	**270.17**	**67.07**	**203.10**

Source: Information provided by the IG, Registration and Stamps, Ajmer.

As ₹ 69.97 crore are outstanding for five years or more, chances of their recovery are bleak. The Department should step up its efforts for realisation of the arrears.

5.4 Cost of collection

The gross collection of revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the period from 2008-09 to 2012-13 along with all India average percentage of expenditure on collection to gross collection of the corresponding years are as follows:

(₹ in crore)

Sl. No.	Year	Gross collection	Expenditure on collection of revenue	Percentage of expenditure on collection to gross collection	All India average percentage for the year
1.	2008-09	1,356.63	29.09	2.14	2.77
2.	2009-10	1,362.94	31.33	2.30	2.47
3.	2010-11	1,941.07	33.63	1.73	1.60
4.	2011-12	2,651.38	43.40	1.64	1.89
5.	2012-13	3,334.87	48.72	1.46	N.A.

Source: Information except all India average percentage provided by the IG, Registration and Stamps, Ajmer.

5.5 Impact of Audit Reports

During the last five years, 23 paragraphs on non-levy/short levy, non-realisation/short realisation, underassessment/loss of revenue, incorrect exemption, application of incorrect rate of tax, incorrect computation *etc.* with revenue implication of ₹ 131.96 crore were pointed out through audit reports. Of these, the Department/Government had fully/partly accepted audit observations in 18 paragraphs involving ₹ 65.86 crore but recovered only ₹ 4.49 crore (as of December 2013). The details are shown in the following table:

(₹ in crore)

Year of audit	Paragraphs included		Paragraphs accepted		Recovery	
	Number	Amount	Number	Amount	Number of paragraph	Amount
2007-08	6	58.36	5	4.14	4	0.90
2008-09	4	10.47	4	10.47	4	1.51
2009-10	5	27.31	3	19.79	3	0.16
2010-11	1	29.78	1	25.55	1	0.72
2011-12	7	6.04	5	5.91	1	1.20
Total	**23**	**131.96**	**18**	**65.86**	**13**	**4.49**

Recovery of ₹ 4.49 crore (6.82 *per cent*) out of ₹ 65.86 crore indicates that the Government must spare no efforts to recover the remaining amount of ₹ 61.37 crore.

5.6 Working of Internal Audit Wing

Financial Adviser is the Head of the Internal Audit Wing. Planning for internal audit of units is made on the basis of importance and revenue realisation. The position of internal audit during the years 2008-09 to 2012-13 was as under:

Year	Units pending for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in *per cent*
2008-09	301	369	670	458	212	31.64
2009-10	212	369	581	360	221	38.04
2010-11	221	369	590	353	237	40.17
2011-12	237	369	606	386	220	36.30
2012-13	220	369	589	183	406	31.06

Source: Information provided by the IG, Registration and Stamps, Ajmer.

It was noticed that 10,382 paragraphs were outstanding at the end of 2012-13. Year-wise breakup of outstanding paragraphs of internal audit reports is as under:

Year	Upto 2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	Total
Paras	5,167	638	927	982	1,079	1,589	**10,382**

Source: Information provided by the IG, Registration and Stamps, Ajmer.

As many as 5,167 paragraphs of internal audit reports are more than five years old and their settlement will become increasingly difficult with passage of time. As such, these need the immediate and focused attention of the Government. The huge outstanding position showed that very little attention was paid by Government to the observations of internal audit.

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

5.7 Results of Audit

During the year 2012-13, test check of records of 182 units of the Department of Registration and Stamps revealed short realisation of SD and RF amounting to ₹ 266.93 crore in 16,210 cases, which broadly fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Under-valuation of properties	3,084	103.67
2.	Non-recovery of Land Tax	1,170	66.98
3.	Non-realisation of revenue due to non vacation of Stay Orders	660	54.36
4.	Non-recovery due to non-execution of Attachment Orders	8,483	22.85
5.	Recovery outstanding due to non-finalisation of Court Cases	2,768	18.52
6.	Incorrect classification of documents	31	0.51
7.	Non-recovery on account of pending decision in Remand Cases	5	0.03
8.	Other Irregularities	9	0.01
	Total	**16,210**	**266.93**

During the year 2012-13 the Department accepted underassessment and other deficiencies of ₹ 94.48 crore pertaining to 11,512 cases of which 10,137 cases involving ₹ 92.42 crore were pointed out during the year 2012-13 and the rest in the earlier years. The Department recovered ₹ 1.00 crore in 867 cases during the year 2012-13 of which 165 cases involving ₹ 0.15 crore related to the year 2012-13 and rest to earlier years.

A few illustrative audit observations involving ₹ 51.64 crore are discussed in the succeeding paragraphs. Department of Registration and Stamps was also entrusted with enforcement and administration of Land Tax as per the Finance Act, 2006 and RLT Rules, 2006 made thereunder A Para on 'Levy and Collection of Land Tax' involving ₹ 29.39 crore has also been discussed in this Chapter in para 5.8.

5.8 Levy and Collection of Land Tax

5.8.1 Introduction

The State Government vide Finance Act, 2006 imposed Land Tax on the mineral bearing land and industrial land held or used by a person, institution or corporation *etc*. The tax is leviable on mineral bearing land irrespective of the area owned by the mine holder. However, for industrial land, the tax is leviable if the area is 10 hectares or more. The levy and collection of Land Tax was governed by the Finance Act, 2006 and RLT Rules made thereunder.

The jurisdictional Sub-Registrars (SRs) of Registration and Stamps Department are authorised as Assessing Authorities (AA) for assessment, levy and collection of Land Tax. The Deputy Inspector General (DIG), Registration and Stamps was designated as Appellate Authority and the power for revision was vested with the Rajasthan Tax Board, Ajmer. The Land Tax was payable on the lands liable to tax for each year at the prescribed rates as notified by the State Government.

The State Government exempted Land Tax payable on all classes of land with effect from 1 April 2013.

5.8.2 Scope of audit

Records for the years from 2006-07 *i.e.* the year in which Land Tax was imposed to 2011-12 of 23 SR (out of 372) offices[2] under the jurisdiction of 5 DIG offices[3] along with the office of the Inspector General (IG), Registration and Stamps, Ajmer and 7 Collectorates and 3 Mining Engineer Offices[4] were test checked from January to April and August 2013. The selection was made on the basis of number of cases and highest collection of revenue.

The audit was conducted with a view to ascertain the efficiency and efficacy of the Land Tax collection mechanism in the SR offices and to highlight lacunae in administration of tax, because of which the assessees approached the courts and revenue was stuck in litigation.

[2] Ajmer-I, Ajmer-II, Bhilwara, Bikaner-I, Bikaner- II, Chittorgarh, Dhariyawad, Dungarpur, Hurda, Khandela, Kherwara, Khetri, Kolayat, Kotputli, Kotri, Masuda, Merta City, Nagaur, Neem Ka Thana, Nimbahera, Palsana, Udaipur-I and Udaipur-II

[3] DIG Ajmer, Bhilwara, Bikaner, Udaipur and Jaipur.

[4] Collector Ajmer, Bhilwara, Bikaner, Chittorgarh, Nagaur, Pratapgarh and Udaipur, Mining Engineer-Bhilwara, Bikaner and Nagaur.

5.8.3 Target and Achievement

The following table presents the year-wise position of target and achievement of tax collection during 2006-07 to 2012-13.

(₹ in crore)

Sl. No.	Year	Budget estimate	Land Tax recovered
1	2006-07	5.00	52.85
2	2007-08	50.00	50.96
3	2008-09	200.00	228.16
4	2009-10	350.00	132.14
5	2010-11	230.00	291.66
6	2011-12	300.00	178.05
7	2012-13	300.00	150.33
Total		**1,435.00**	**1,084.15**

Source: Information provided by the IG, Registration and Stamps, Ajmer.

It was observed that in the initial three years from 2006-07 to 2008-09, the tax collection was more than the targets. However, the Department was not able to meet the targets fixed for the year 2009-10, 2011-12 and 2012-13 primarily due to retrospective reduction of rates. Further, excess amount was realised in 2008-09 and 2010-11 due to recovery of old dues during these years.

Audit findings

5.8.4 Non-maintenance of basic records

Non-prescription of demand and collection register

The Finance Act, 2006 and Rules made thereunder did not contain provisions for maintenance of demand and collection register as maintained by other revenue departments for monitoring position of tax demands, collection of tax and arrears of tax to be collected. It was noticed during audit that none of the selected AAs maintained the demand and collection register for monitoring the tax demands and collection thereof. In the absence of such registers, audit could not ascertain and analyse the efficiency of the Department in raising demands and collection of arrears of tax.

Non-maintenance of objection book by the AAs

The objection book was to be maintained by the AAs as per the RLT Rules, 2006. It was noticed that none of the test-checked SRs maintained the objection book in Form-3 wherein all objections raised by the assessees regarding the valuation and assessment were to be registered. Further, after allowing the applicant an opportunity of being heard in person or through his agent to produce evidence in support of his claim, the result thereof was to be noted in the objection book by the AA. It was, however, noticed that no such system was evolved or adopted with the result that audit could not ascertain whether all the objections raised by the assessees with regard to valuation and

assessment of Land Tax were considered and expeditiously settled before finalisation of assessment.

The matter was brought to the notice of the Department (September 2013) and reported to the Government (December 2013). The Government in its reply (February 2014) accepted the audit observation.

5.8.5 Non-conducting of surveys for preparation of provisional assessment list

Rule 3 of the RLT Rules, 2006 provides that the concerned AA shall get a survey of land and identify the persons liable to pay the Land Tax. Further, Rule 4 envisages that after making enquiries, the provisional assessment list should be prepared and market value of the land should be determined by the AA. Thereafter, the AA should serve demand notices to the persons for recovery of Land Tax (Rule 10).

During test check of the records of SRs it was noticed that the SRs neither conducted the survey in their jurisdictional area nor identified the persons who were liable to pay Land Tax for preparing a provisional assessment list. Despite the explicit provisions, the SRs obtained the information regarding assessees in respect of mining leases from the offices of Mining Department and for industrial lands information was collected from their own revenue records. The SRs issued assessment orders based on such information without identifying persons and conducting independent surveys. Failure to conduct surveys resulted in serious shortcomings in assessment and collection of Land Tax as discussed in the succeeding paragraphs.

The matter was brought to the notice of the Department (September 2013) and reported to the Government (December 2013). The Government while accepting (February 2014) the fact of non-conducting of surveys stated that it was a procedural lapse.

5.8.6 Non-preparation of authenticated Final Assessment list

Sections 38(c) and 39(b) of the Finance Act, 2006, *inter alia,* exclude the land held or used exclusively for agricultural, residential and public purposes from payment of Land Tax.

Section 40 of the Finance Act provides that the AA shall prepare a provisional assessment list containing all particulars of all lands liable to pay the tax. As per Section 41, any person aggrieved by any entry in the provisional assessment list may within a period of 30 days from the date on which the list is made available for inspection to the assessee, file objection in respect thereof before the AA. As per Rule 5 of RLT Rules, the AA shall give public notice in Form-2 in one daily newspaper circulating in the locality in which the land is situated. Further, Section 42 provides that where an objection is filed in respect of the land mentioned in the provisional assessment list, the AA shall, after affording an opportunity of being heard and producing evidence to the objector, decide the objection and confirm, revise or modify the entries in the list in respect of such land. The provisional assessment list shall thereupon be duly authenticated by the AA.

Under Rule 10, the AA had to issue a notice of demand of tax or penalty under Sections 47 and 49, as the case may be.

During test check of records it was noticed that:

- none of the selected SRs circulated the provisional assessment list after its preparation. The lists were also not published in any newspaper circulating in the locality in which the land was situated.
- eight assessees under SRs, Khetri and Neem Ka Thana submitted objections against the provisional assessment list. However, the AAs without considering such objections and without affording any opportunity of being heard to the assessees, unilaterally finalised the assessment orders and issued attachment warrants.
- none of the selected SRs prepared the final authenticated assessment list and issued the demand in Form-8 for recovery, though for the purpose of demand and recovery of Land Tax, the preparation of final authenticated assessment list was a condition for levy and collection of tax by the AA.
- the AAs levied tax on the entire land area including the area used for agricultural, residential and public utility purposes. Further, the AAs levied tax on the whole area even if the land area originally granted for mining lease was fully or partly surrendered.

The matter was brought to the notice of the Department (September 2013) and reported to the Government (December 2013). The Government accepted (February 2014) that there was a procedural lapse as pointed out.

5.8.7 Escapement from assessment of Land Tax

Rule 8 of the RLT Rules, 2006 provides that where tax in respect of any land or any portion thereof has, for any reason escaped from assessment, the SR shall serve notice to the land holders.

Test check of records of the seven public offices[5] disclosed that 18 assessees under jurisdiction of 14 SRs[6] were not assessed for Land Tax. These assesses escaped assessment of Land Tax because the AAs had not conducted survey in their jurisdiction to identify persons liable to pay Land Tax which resulted in non-levy of Land Tax amounting to ₹ 7.29 crore.

The matter was brought to the notice of the Department (September 2013) and reported to the Government (December 2013). The Government replied (February 2014) that an amount of ₹ 0.10 crore was recovered from three assesses, demand notices were issued to five assesses after provisional assessment and proceedings were dropped in one case amounting to ₹ 0.08 crore. For the remaining nine cases, the Department stated that directions were issued to the concerned DIGs for compliance.

5.8.8 Assessment of Land Tax by AA

5.8.8.1 Underassessment of Land Tax due to application of incorrect rate

As per Government Notification dated 9 March 2007 as amended on 19 June 2007, Land Tax on Gypsum bearing lands was chargeable at the rate of ₹ 2 per square metre or 10 *per cent* of the market value of the land, whichever was less.

During test check of the records of SR, Bikaner-I, it was noticed that the AA levied Land Tax on M/s FCI Aravali Mills, Jodhpur for the year 2007-08 at the rate of 5 *per cent* of the market value of the land amounting to ₹ 1.56 lakh for mining of Gypsum instead of charging Land Tax at the rate of 10 *per cent* of the market value of the land amounting to ₹ 3.12 lakh. Thus, levy of Land Tax at incorrect rate resulted in short levy of Land Tax amounting to ₹ 1.56 lakh.

The matter was brought to the notice of the Department (September 2013) and reported to the Government (December 2013). The Government replied (February 2014) that the concerned offices had been directed to furnish compliance.

[5] Collector Bikaner, Chittorgarh, Nagaur, Pratapgarh, Udaipur and Mining Department, Bhilwara and Bikaner.
[6] Ajmer-II, Arnod, Begu, Bikaner-I, Bikaner-II, Deedwana , Jayal, Kapasan, Kheenvsar, Kolayat, Kotri, Mavali, Nagaur and Pratapgarh.

5.8.8.2 Underassessment of Land Tax due to incorrect classification of mineral

The rate(s) of Land Tax on lands bearing Zinc, Copper, rock phosphate, cement & SMS Grade limestone have been specified in the notification issued by the Government of Rajasthan in March 2007. As per the notifications, Land Tax on cement and SMS grade limestone bearing lands was chargeable at the rate of ₹ 4 per square metre or 10 *per cent* of the market value of the land, whichever was less. The rate of Land Tax in respect of lands other than the above involving area 10 hectare or above was ₹ 0.75 or 5 *per cent* of the money value of the land whichever was less.

During test check of records of the SR, Neem Ka Thana, it was noticed that the AA levied Land Tax of ₹ 8.38 lakh on 24.35 hectare land against M/s Lucky Minmet Private Limited, Neem Ka Thana for the period 2006-07 to 2011-12. The tax payable as per the notification was ₹ 52.40 lakh. Levy of tax at the incorrect rate resulted in short realisation of revenue of ₹ 44.02 lakh[7].

The matter was brought to the notice of the Department (September 2013) and reported to the Government (December 2013). The Government replied (February 2014) that the matter would be examined and the results thereof would be intimated.

5.8.8.3 Issue of incorrect assessment orders

Section 39 of the Finance Act provides that tax shall be levied and collected for each year on lands held or used at the prescribed rates as per notification dated 9 March 2007 as amended on 19 June 2007.

During test check of records, it was noticed that:

- demands of Land Tax amounting to ₹ 6.00 crore were raised against 80 lease holders of three SR offices[8] engaged in mining of chemical limestone by the concerned AAs. However, scrutiny disclosed that the lease areas held by the individuals was less than 10 hectares in each case and therefore these leaseholders were not liable to pay tax.
- assessment of Land Tax in nine cases of seven SR offices[9] was done at higher rates instead of the prescribed rates. This resulted in over assessment of Land Tax amounting to ₹ 4.87 crore.

The matter was brought to the notice of the Department (September 2013) and reported to the Government (December 2013). The Government replied (February 2014) that the cases were being examined.

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[7] Department calculated Land Tax at the rate of ₹ 1.82 lakh per year for the period from 2006-07 to 2008-09 and at the rate of ₹ 97,400 per year for the period from 2009-10 to 2011-12, which worked out to ₹ 5.46 lakh and ₹ 2.92 lakh aggregating to ₹ 8.38 lakh as per sl. no. 7 of the notification dated 9 March 2007. However, the Land Tax should have been calculated @ 5% of the market value or ₹ 4/- per sqm whichever less for the year 2006-07 as per notification dated 31 March 2006 and on the basis of sl. no. 4 of the notification dated 19 June 2007 that is at the rate of ₹ 10.38 lakh per year for the period 2007-08 to 2011-12 aggregating to ₹ 52.40 lakh.

[8] Kotri (2006-07 to 2011-12, ₹ 8,93,352), Merta City (2007-08 to 2012-13, ₹ 1,00,95,619) and Nagaur (2007-08 to 2012-13, ₹ 4,89,24,500) = ₹ 5,99,13,471.

[9] Ajmer-II, Bhilwara, Dhariyawad, Hurda, Nagaur, Nimbahera and Udaipur-I.

5.8.9 Delay in issue of demand notices

Section 47 (2) of the Finance Act, 2006 read with the Rule 10 of the RLT Rules provides that the AA to realise the tax shall, as soon as the tax becomes payable, cause a notice of demand, containing all particulars as prescribed in Form-8 to be served on the owner calling upon him to pay the tax due within a period of 30 days from the date of service of the notice.

During test check of records of two SRs (Neem Ka Thana and Khetri) it was noticed that the AAs issued demand notices after a delay ranging between 26 and 1,573 days for assessment orders pertaining to years 2006-07 to 2011-12. As a result, the tax collection of ₹ 36.60 crore was delayed.

The matter was brought to the notice of the Department (September 2013) and reported to the Government (December 2013). The Government in its reply (February 2014) accepted the audit observation and stated that there was a procedural lapse.

5.8.10 Non-raising of demand of penalty

Section 49 (1) of the Finance Act, 2006 provides that when an assessee is in default in making payment of any instalment of the tax payable, he shall pay, in addition to the amount of arrears of tax, an amount equal to the amount of tax by way of penalty, provided that where an appeal against the order of assessment is pending, the assessee shall not be liable to pay the penalty, if the arrears of tax are paid during the pendency of that appeal or within thirty days of the decision thereof.

Test check of records of four SRs disclosed that the AAs had not raised demands of penalty of ₹ 16.77 crore against the assessees who had not deposited demands within the prescribed period of 30 days from the date of decision thereon. The details were as under:

5.8.10.1 During scrutiny of the records of SR, Khetri, it was noticed that Hon'ble Rajasthan High Court, Jaipur quashed (4 March 2011) the impugned orders of assessment/demand notices issued earlier to M/s Hindustan Copper Limited, Khetri for recovery of Land Tax by the SR, Khetri in respect of three mining leases. The Court remanded the matter back to the AA to decide the assessments afresh after providing opportunity of being heard to the assessee keeping in view the provisions contained in the Act and the Rules.

In pursuance of the Court order, the SR finalised (21 September 2011) the matter after a period of more than six months and calculated differential outstanding tax of ₹ 15.43 crore for the period 2006-07 to 2011-12. Scrutiny disclosed that though the AA had finalised the outstanding tax, the assessee did not deposit the outstanding tax till August 2013. However, the SR did not impose penalty of ₹ 15.43 crore. Thus, the Land Tax and penalty aggregating to ₹ 30.87 crore was recoverable.

5.8.10.2 In another case of SR, Khetri, it was noticed that a firm M/s Nand Lal Agrawal and Sons approached (27 February 2007) Hon'ble Rajasthan High Court against the assessment order for the period 2006-07 stating that assessment orders were finalised without preparation of final authenticated assessment list and proper opportunity was not given to represent against the amount of ₹ 5.48 lakh levied by the AA. The Court granted stay on further proceedings and directed the firm to pay 50 *per cent* of Land Tax. The firm deposited 50 *per cent* of Land Tax of ₹ 2.74 lakh for the period 2006-07 to 2008-09 in compliance of the order of the Court.

The AA prepared provisional assessment list for the year 2009-10 and after hearing the firm, agreed to levy Land Tax on an area of 24.38 hectares. The assessee thereafter paid Land Tax amounting to ₹ 2.93 lakh (₹ 97,550.00 for each year) as per the assessment order for the year 2009-10, 2010-11 and 2011-12. It was noticed that the demands for the year 2009-10 and 2010-11 were paid by the firm after a delay of 122 and 264 days respectively. The AA did not levy penalty of ₹ 1.95 lakh on the firm for the assessment years 2009-10 and 2010-11.

Meanwhile, the Court set aside (4 March 2011) the assessment order for 2006-07 to 2008-09 and directed the AA to issue fresh assessment order after giving reasonable opportunity of being heard to the assessee. Scrutiny disclosed that the demand of tax remained the same against the firm as there was no change in the area of the mine. The firm did not deposit balance amount of Land Tax of ₹ 2.74 lakh (till August 2013) even after issue of repeated demand notices.

5.8.10.3 During test check of assessment files of SRs, Khetri and Nimbahera, it was noticed that two assessees (M/s Shakambari Maa Mineral Private Limited, Khetri and M/s Jain Agro Distillery Private Limited, Nimbahera) deposited Land Tax after delays. It was noticed that M/s Shakambari Maa Mineral Private Limited, Khetri deposited Land Tax of ₹ 8.05 lakh for the period 2006-07 to 2011-12 with delays ranging between 147 and 411 days from the due date. M/s Jain Agro Distillery Private Limited, Nimbahera deposited Land Tax arrears of ₹ 5.31 lakh for the period 2006-07 to 2007-08 after a delay of 29 days from the date of demand notice. However, the AAs did not impose penalty of ₹ 13.36 lakh against them.

5.8.10.4 During test check of assessment files of Land Tax at SR, Palsana, it was noticed that two assesses, Shri Girdhari Singh and Ompal Singh did not pay Land Tax of ₹ 1.12 crore for the period 2006-07 to 2009-10 even after issue of repeated demand notices. Further, Shri Parakram Singh also did not pay Land Tax of ₹ 0.07 crore for the period 2006-07 to 2011-12 in the office of SR, Khandela raising the total outstanding Land Tax to ₹ 1.19 crore. It was further noticed that the AAs did not raise penalty of ₹ 1.19 crore against these defaulters. Thus, an aggregate amount of ₹ 2.38 crore remained unrecovered.

The matter was brought to the notice of the Department (September 2013) and reported to the Government (December 2013). The Government replied (February 2014) that progress in the above cases would be intimated.

5.8.11 Internal Control

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules, executive instructions *etc*. Such controls are exercised through internal audit by periodical and effective monitoring of the functioning of the Department.

As pointed out in earlier paragraphs, the SRs in their capacity as AAs for Land Tax did not carry out surveys or identify the persons on whom tax was leviable. The AAs also failed in preparation of authenticated final assessment list and its publication in the newspaper. Further, the assessees were not given proper opportunity to represent themselves and as a result, they approached the Court and recoveries were stalled. The other shortcomings of internal control are discussed in the succeeding paragraphs.

5.8.11.1 Non-provision of payment of tax in instalments

Section 47 (1) of the Finance Act, 2006 read with Rule 11 of RLT Rules provides that the tax in respect of land shall be payable in instalments as may be prescribed into the concerned treasury by means of a challan in Form-9 or through a demand draft or crossed cheque in favour of the AA concerned, drawn on any bank scheduled or approved by Reserve Bank of India.

It was noticed that the Department did not follow provision of Section 47 (1) of the Finance Act, 2006 and failed to prescribe the payment of tax in instalments either in the RLT Rules, 2006 or through any executive direction. The intention of the Act was to allow easy payment in instalments in cases where the amount of Land Tax payable was substantial. Prescription of such a provision would have had a positive impact on realisation of Land Tax.

The matter was brought to the notice of the Department (September 2013) and reported to the Government (December 2013). The Government accepted (February 2014) the audit observation and stated that there was a procedural lapse.

5.8.11.2 Non-reconciliation of challans with treasuries

As per Rule 12 of the RLT Rules, 2006, the AA concerned shall prepare a statement of challans in Form-10 in the first week of each month and shall forward it to the Treasury Officer for verification. Further, if any discrepancy is discovered by the Treasury Officer at the time of verification, he shall inform the AA concerned, who shall send the necessary records to the Treasury Officer for reconciliation of accounts.

During test check of the records of five SR offices[10] it was noticed that an amount of Land Tax of ₹ 15.21 crore (2006-07 to 2011-12) was deposited by nine assessees. The concerned AAs did not even prepare the statement of challans in Form-10. In the absence of reconciliation, the possibility of discrepancies in collection and remittances of Land Tax could not be ruled out.

The matter was brought to the notice of the Department (September 2013) and reported to the Government (December 2013). The Government in its reply (February 2014) did not accept the audit observation and stated that the amount of Land Tax had been reconciled.

The reply of the Government is not acceptable, as the AAs did not observe the prescribed procedure for verification of challans with treasuries.

5.8.11.3 Internal Audit

Internal Audit is an essential part of the internal control mechanism to safeguard the revenue and detect deficiencies. The provisions regarding internal audit were not incorporated in the RLT Rules, 2006. Further, the Department had not made any procedure for inspection of records.

It was noticed that no internal audit had been conducted by the Department in any of the test checked SRs during 2006-07 to 2011-12.

The matter was brought to the notice of the Department (September 2013) and reported to the Government (December 2013). The Government in its reply (February 2014) accepted the facts and stated that no separate man power was sanctioned for conducting internal audit of Land Tax.

5.8.12 Conclusion

The AAs neither conducted the survey in their jurisdictional area nor identified the persons who were liable to pay Land Tax for the purpose of preparing a provisional assessment list. The provisional assessment lists were finalised without considering the objections raised by the assessees and without providing them proper opportunity of being heard. The final authenticated assessment lists were not published. The assessment orders were issued without considering the definition of 'Land' as given in Section 38 (c). The AAs also did not raise penalty against the assessees who had failed to deposit the tax within the prescribed period.

[10] Chittorgarh, Hurda, Nagaur, Nimbahera and Udaipur-I.

5.9 Audit observations

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

5.10 Non-observance of provisions of Acts/Rules

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

(i) levy of SD on market value of the property;

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

(iii) levy of SD and RF on unregistered/ incorrectly classified development agreement and transfer of land where it is presented as purely development agreement;

(iv) levy of SD in cases of lease deeds as per extant provisions; and

(v) recovery of exemption of SD on violation/non-observance of terms and conditions of Rajasthan Investment Policy Schemes, 2003 and 2010.

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

5.11 Irregular/undue benefit of SD under RIPS

5.11.1 Non-recovery of exempted SD on breach of condition

As per clause 8 of the Rajasthan Investment Promotion Scheme (RIPS)-2003 and clause 5 of RIPS-2010, read with the terms and conditions of the Lease Agreement, 50 *per cent* exemption was allowed on the SD payable on the instruments executed for the purchase or lease of land for establishing industrial units subject to condition of construction within a period of two years and commencement of commercial production or operation during the period allowed under the Schemes. Further, as per clause 10 of RIPS-2003 and clause 9 of RIPS-2010, in case of breach of any condition mentioned anywhere in the scheme, the benefits availed under the scheme, shall be withdrawn and recovered along with interest at the rate of 18 *per cent* per annum from the date from which the benefits had been availed.

During test check (December 2012 and January 2013) of records of SRs, Bhiwadi and Jaipur-I, it was noticed from the recital that six leases were originally executed between September 2009 and December 2011. The said leased plots were subsequently sold by the allottees to other persons (between April 2011 and March 2012) after 1 to 19 months of allotment of lease without establishing units in breach of condition of the scheme and lease agreement. The SRs had not recovered 50 *per cent* exempted amount of SD of ₹ 58.93 lakh and interest of ₹ 18.88 lakh (upto December 2012) before registration of documents in favour of subsequent transferees. This resulted in non-recovery of exempted SD and interest of ₹ 77.81 lakh.

The matter was pointed out to Department (January and February 2013) and reported to the Government (June 2013). In reply, the Government intimated (October 2013) recovery of ₹ 43.61 lakh in four cases and issue of notice in one case. Progress in the remaining case is awaited (February 2014).

5.11.2 Undue benefit of exemption allowed on SD

Under the RIPS-2010, 50 *per cent* exemption was allowed on the SD payable on the instruments executed for the purchases or lease of land for establishing industrial units. Further, as per Sl. No. 4 of Annexure-I of the RIPS, 50 *per cent* exemption in SD is admissible to only those enterprises that are established at a site of an existing sick industrial enterprise.

During test check of the records of SR, Jaipur-V, it was noticed (December 2012) from the recital of a sale deed that the registration authority allowed exemption of SD of ₹ 2.51 crore, being 50 *per cent* amount of total SD of ₹ 5.02 crore payable on the deed, in terms of RIPS-2010. Audit scrutiny of sale deed and the exemption certificate from the Industries Department revealed that the firm had purchased the plot, for a hotel project, on which the seller was operating a bottling plant which was not a sick industrial enterprise and as such it was not entitled to the 50 *per cent* exemption in SD.

Therefore, undue exemption of ₹ 2.51 crore was allowed to the purchaser by the SR.

The matter was pointed out to the Department (January 2013) and reported to the Government (June 2013). In reply, the Government stated that a case had been registered with DIG (Stamps).

5.12 Short levy of SD on registration of lease deeds

Under the provisions of Article 33(a)(iii) of the Schedule appended to RS Act, 1998 where the lease purports to be for a term in excess of twenty years or in perpetuity or where the term is not mentioned, SD is chargeable as on a conveyance on the market value of the property.

Further, under explanation of the above Article, the term of a lease shall include not only the period stated in the document but shall be deemed to be the sum of such stated period along with all previous periods immediately preceding this without a break for which the lessee and lessor remained the same.

5.12.1 On scrutiny of records of two SRs (Jaipur-VII and Jhadol-Phalasia), it was noticed (October 2012 and January 2013) that two lease deeds were registered for a period of more than 20 years. Further, in another case, the house was given on lease from 26 December 2005 and new lease deed was executed for 15 years from 12 August 2011 after cancelling the previous lease on 25 July 2011. The SR charged SD on the basis of the average rent for the period shown in lease deed instead of chargeable SD as on conveyance on the market value of the property. This resulted in short levy of SD and RF aggregating to ₹ 11.73 lakh.

The matter was pointed out to the Department (November 2012 and February 2013) and reported to the Government (June 2013). The Government replied (November 2013) that in one instrument, case was registered with DIG (Stamps) and in another case a notice was issued.

Under the provision of Article 33(b) (ii) of Schedule to the RS Act, 1998 where the lease is granted for a fine or premium or for money advanced or development charges advanced or security charges advanced and where no rent is reserved and where the lease purports to be for a term in excess of 20 years, or in perpetuity or where the term is not mentioned, the SD is chargeable as on a conveyance on the market value of the property.

5.12.2 During test check of records of two SRs (Jaipur-VIII and Sanganer-I), it was found (July and August 2012) that two lease deeds were registered for a period of more than 20 years in which the lessor (M/s Mahendra World City (Jaipur) Limited) transferred the land to the lessees on consideration value of ₹ 28.32 crore of the properties instead of calculating the value at the prevailing DLC rate for commercial land which amounted to ₹ 109.97 crore. Thus, undervaluation of properties by ₹ 81.65 crore resulted in short levy of SD of ₹ 4.74 crore.

The matter was pointed out to the Department (August and September 2012) and reported to the Government (June 2013). The Government replied (November 2013) that the cases had been registered with DIG (Stamps).

5.13 Short levy of SD and RF on registration of lease deeds due to non-inclusion of interest amount in the consideration

As per Government notification dated 19 August 2010, the SD is chargeable at the rate of conveyance on the consideration amount comprising interest, penalty, and average rent of two years in case of allotment/ sale of immovable property by RIICO.

During test check (January 2013) of records of SRs, Bhiwadi (Alwar), Kishangarh and Kota-II, it was noticed that 23 lease deeds pertaining to the plots allotted to various units by RIICO to establish industries were registered during the year 2011-12. The SRs charged SD on consideration value taking into account only development charges, economic rent etc., but excluding interest amount of ₹ 18.46 crore. This resulted in short levy of SD and RF of ₹ 52.93 lakh.

The matter was pointed out to Department (January 2013) and reported to the Government (June 2013). In reply, the Government stated (November 2013) that in four cases amount of ₹ 14.97 lakh had been recovered, in three cases recovery was pending after adjudication and in the remaining 16 cases action was being taken.

5.14 Short levy of SD and RF due to undervaluation of properties

As per Article 21(i) of the Schedule to the Rajasthan Stamp (RS) Act, 1998, SD on the instrument of conveyance relating to immovable property shall be levied on the market value of the property. Rule 58 of the RS Rules, 2004 provides that the market value of the land shall be assessed on the basis of the rates recommended by the District Level Committee (DLC) or the rates approved by the IG (Registration and Stamps), whichever is higher. The RF is also chargeable at the rate of one p*er cent* of the valuation subject to maximum of ₹ 50,000 with effect from 9 April 2010 as per Registration Act, 1908.

The State Government vide notification dated 9 March 2011 clarified that if the rates are not recommended by the DLC for institutional purposes, SD on the land purchased for above purpose, would be chargeable on the consideration value mentioned in the document or equal to one and a half times the rate of residential land of that area, whichever is higher.

5.14.1 During test check of records of eight SRs[11], it was noticed that 16 sale deeds were registered during the year 2011-12 for institutional purposes. However, the concerned SRs charged the SD at the rate of conveyance on the valuation of land at agriculture rates in 12 cases, residential rates in 2 cases,

[11] Amer, Jaipur-VIII, Jhadol-phalasia, Kota-II, Kotkhawada, Mawli, Phagi and Sanwad.

industrial rate in 1 case and valuation was not done in 1 case due to misclassification of document. Thus, undervaluation of property resulted in short levy of SD and RF of ₹ 1.66 crore details of which are as under:

(₹ in lakh)

S. No.	Nature of Documents	No. of Documents	Actual value as per DLC	1.5 times of the value of the property	Value of other item of the property	Total value of the property (5+6)	Value taken by the Department	Difference in value of property (7-8)	SD &RF leviable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	Agriculture	12	2,134.07	3,201.11	4.30	3,205.41	763.45	2,441.96	130.53
2	Residential	2	6.77	10.16	2.90	13.06	9.68	3.38	0.22
3	Industrial	1	182.94	274.41	22.00	296.41	79.99	216.42	11.90
4	Others	1	280.51	420.76	0	420.76	0	420.76	23.63
	Total	**16**	**2,604.29**	**3,906.44**	**29.20**	**3,935.64**	**853.12**	**3,082.52**	**166.28**

The matter was pointed out to the Department (between September 2012 and February 2013) and reported to the Government (June 2013). The Government replied (November 2013) that in nine sale deeds, cases were pending with DIG (Stamps), in four cases amount of ₹ 1.08 lakh had been recovered and in three cases recovery was pending after adjudication of cases.

Rule 58 of the RS Rules, 2004 provides that the market value of the land shall be assessed on the basis of the rates recommended by the DLC or the rates approved by the IG (Registration and Stamps), whichever is higher.

5.14.2 During test check of the records of six SRs[12] for the year 2011-12, it was noticed that in 38 sale deeds, the SRs had applied incorrect rates which resulted in short levy of SD and RF amounting to ₹ 59.25 lakh. A few illustrations are mentioned as under:

(₹ in lakh)

S. No.	Document no. /Date	Area of the property	Applicable DLC rate	Rate adopted by the Department	Value of the property	Value of the property taken by Department	Difference in value of property	SD &RF leviable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	3320/25.7.11	0.320 *Bigha*	142.31 Per *Bigha* (3 times of DLC as at Col. 5)	47.44 Per *Bigha* (DLC)	45.54	15.18	30.36	1.97
2	16694/28.6.11	4.85 *Bigha*	18.216 Per *Bigha* (2 times of DLC as at Col. 5)	9.11 Per *Bigha* (DLC)	88.34	44.17	44.17	2.49
3	521/12.5.11	0.8314 Hectare	18.34 Per Hectare (1.5 times extra of DLC as at Col. 5)	7.33 Per Hectare (DLC)	15.24	6.09	9.15	0.59

The matter was pointed out to the Department (between October 2012 and February 2013) and reported to the Government in June 2013. In reply, the Government stated (October and November 2013) that cases had been

[12] Ahore, Bhilwara, Jaipur-VI , Jaipur-VII, Jodhpur-II and Ramgarh (Alwar).

registered with DIG (Stamps) in 17 cases of sale deeds; in 9 cases, recovery was pending after adjudication; in 4 cases, amount of ₹ 5.54 lakh had been recovered; and in the remaining 8 cases notices had been issued.

As per circular no. 1/2009 issued by I.G. (Registration and Stamps), Rajasthan, Ajmer at the time of execution of instrument if land was utilised for industrial purpose or land was situated in RIICO/other industrial area or land was converted for industrial purpose, then market value of the land shall be assessed on the basis of industrial rate as under:

(i) At the time of execution of instrument for RIICO industrial area the reserve rate of RIICO or rates approved by DLC whichever is higher.

(ii) Land situated outside RIICO industrial area, market value of the land shall be assessed on the basis of DLC rates or reserve rate of RIICO nearby area, whichever is higher.

Further as per notification dated 9 March 2011, the SD on instrument of conveyance relating to land for industrial purpose (including land for tourism unit) for which rates are not recommended by the DLC shall be reduced and charged on the valuation assessed at the rates recommended by DLC for residential land in that area or at the rates of land of RIICO Industrial area situated within the radius of five kilometres, whichever is lower.

5.14.3 During test check of records of five SR offices[13] it was noticed that 60 sale deeds were registered during the years 2008-09 to 2011-12, in which industrial properties were undervalued which resulted in short levy of SD and RF of ₹ 2.66 crore.

The matter was pointed out to the Department (July 2012 to January 2013) and reported to the Government in June 2013. In reply, the Government stated (September and November 2013) that out of 60 sale deeds, in 4 cases amount of ₹ 10.69 lakh had been recovered; 2 cases had been registered with DIG (Stamps); in 43 cases, notices had been issued; in 10 cases, letters had been issued for taking action as per audit observations; and in the remaining 1 case, actual valuation was higher than the DLC rate.

[13] Bhiwadi, Chechat, Neem ka thana, Nimbahera and Talera.

5.15 Non-recovery of SD and RF due to non-registration of transfer of lease by way of assignment

Section 17 of the Registration Act, 1908 provides that other non testamentary instruments which purport or operate to create, declare, assign, limit or extinguish whether in present or future, any right, title or interest whether vested or contingent, of the value of ₹ 100 and above to or in immovable property, are required to be compulsorily registered. Further, SD and RF are also payable at the prescribed rates. As per Article 55 of the Schedule appended to the RS Act, 1998 in case of instrument of transfer of lease by way of assignment, the SD is leviable as a conveyance on the market value of the property which is the subject matter of transfer. The IG by issue of circular no. 6/2009 clarified that the instrument executed for change in the partnership will come in the category of transfer of lease by way of assignment. As per Section 37(3) of the RS Act, 1998, the State Government may determine offices which shall be deemed to be public offices and persons who shall be deemed to be in charge of public offices. The I.G. directed (January 1998) the DIGs/Collectors (Stamps) to inspect the record of public offices to see whether SD was being paid by the public correctly.

5.15.1 Scrutiny of information collected (November 2012) from the Registrar of Firms (ROF), Jaipur disclosed that a partnership firm was registered by seven partners for Brick kiln Industry at villages Hardyanpura and Kanota on land measuring 47.70 *Bigha* (1.21 lakh sqm)[14] with all seven partners having equal share in the property. A revised partnership cum retirement deed was entered into (19 January 2011) by all the partners and submitted to ROF whereby three partners retired and transferred their share of 0.52 lakh sqm land valuing ₹ 5.40 crore to the remaining partners of the firm. The firm paid the share to the retiring partners in cash in lieu of their assets. However, no conveyance deed was executed for the land transferred from the retired partners to the firm resulting in non levy of SD and RF of ₹ 30.19 lakh. The ROF also did not submit report to the Collector regarding unstamped or under-stamped instruments. Lapse of these offices resulted in non-realisation of revenue of ₹ 30.19 lakh to the State.

The matter was pointed out to the Department (December 2012) and reported to the Government in June 2013. The Government replied (December 2013) that the case had been registered with DIG (Stamps).

5.15.2 During test check of the information collected (September 2012) from the Registrar of Firms (ROF), Jaipur (City), it was noticed that three partners established a partnership firm which was registered on 9 January 2012 (vide partnership deed dated 17 December 2011) on stamp paper of ₹ 500. Scrutiny of the deed disclosed that for setting up of a resort the third partner had contributed 1.21 lakh sqm (13.06 lakh sqft) of converted land by keeping 5 *per*

[14] One *bigha* = 2,529.20 Sqm.

cent share with himself, at village Kuldhara, *Tehsil* Jaisalmer as his investment in the partnership firm, but the transfer of the above land from a partner to the firm was not registered. As the partnership firm became the sole owner of the said land by transfer of lease by way of assignment by one of the partners, the instrument of change in ownership should have been duly stamped and registered. However, ROF did not refer the matter of transfer of land without payment of SD to the Collector (Stamps). Neither the SR, Jaisalmer nor the Collector (Stamps) inspected the records pertaining to Jaisalmer at ROF, Jaipur. The Department also did not evolve any mechanism whereby the public offices could report unstamped documents. Therefore, revenue of ₹ 23.02 lakh[15] on the market value[16] of the land could not be realised by the State Government due to lack of coordination between ROF and SR.

The matter was pointed out to the Department (October 2012) and brought to the notice (July 2013) of Government. In reply, the Government stated (December 2013) that notices had been issued to concerned parties.

5.15.3 During test check of records of five SRs (Jaipur-I, IV, V, VI and Jodhpur-IV), it was noticed from the recital of 11 sale deeds that individual owners and firms contributed their land as their investment in the partnership firm to develop land into multistoreyed flats or villas. With this the individual owner or owners (assigner/s) had transferred (assigned) their land to the assignee (partnership firm) vide which the assignee became the sole owner of the said property. Hence, on transfer of immovable property to the partnership firm, SD, RF and surcharge of ₹ 5.47 crore was leviable. However, the SRs while registering the sale deeds did not charge the same which resulted in non-levy of SD, RF and surcharge amounting to ₹ 5.47 crore.

The matter was reported to the Government (June 2013) for specific comments. In reply, the Government stated (December 2013) that in seven cases of sale deeds, cases had been registered with DIG (Stamps) and in remaining four cases DIG (Stamps) had been directed to register the cases.

[15] SD ₹ 20,47,604, surcharge ₹ 2,04,760 and RF ₹ 50,000 = ₹ 23,02,364.
[16] Market value =12,40,972.32 sqft @ DLC ₹ 33 psqft = ₹ 4,09,52,087.

5.16 Non-levy of SD and RF on lease deeds after change of land use

As per notification dated 25 February 2008, the SD chargeable on the instruments of immovable property executed by the State Government, Rajasthan Housing Board, Jaipur Development Authority, UIT, RIICO, Municipal Council or Nagar Nigam after change of land use, shall be reduced and charged only on the difference of market value of land calculated on the basis of previous land use and changed land use. Section 17 of the Registration Act, 1908 provides that other non-testamentary instrument of the value of ₹ 100 and above to or in immovable property are to be compulsorily registered. Further, RF is payable at the prescribed rates.

5.16.1 During test check of records of nine SRs[17] and as per information collected from UITs Ajmer, Bhilwara, Udaipur and Jodhpur Development Authority, it was noticed (July 2012 and January 2013) that after change of land use from concerned local bodies in 67 cases, revised lease deeds were not executed and registered due to which SD and RF aggregating to ₹ 23.91 crore payable on the differential market value of previous land and changed land use were not charged.

The matter was pointed out to the Department (August 2012 to January 2013) and reported to the Government (June 2013). In reply, the Government stated (December 2013) that in 10 instruments, cases had been registered, in 1 case notice had been issued and directions had been issued to DIGs (Stamps) Udaipur, Jodhpur, Pali and Bhilwara to register cases, progress of which was awaited. Information in the remaining cases is awaited.

5.16.2 Test check of records of SR, Bhilwara and Jaipur-V disclosed that in six lease deeds, the land use was changed from industrial/residential to commercial purposes. The SRs charged SD and RF as conveyance on the face value of ₹ 14.91 crore prescribed by Municipal Council, Bhilwara and RIICO instead of SD payable on the difference of market value of the previous land use (industrial/residential) and changed land use (commercial) as per notification. This resulted in short levy of SD and RF of ₹ 7.97 crore.

The matter was pointed out to the Department (December 2012) and reported to the Government in June 2013. In reply, the Government stated (December 2013) that cases had been registered in five cases with DIG (Stamps). Progress of the remaining one case was not intimated.

[17] Ajmer-I, Bhilwara, Jaipur-V, Jaipur-IV, Jaipur-VI, Kota-II, Sanchore, Sanganer-I and Sanganer-II.

5.17 Non-recovery of SD and interest on violation of condition prescribed for availing exemption

As per notification dated 1 March 2003, the State Government has remitted the SD on instruments of sale and lease to be executed in favour of Industries and common facilities situated in SEZ, developed and promoted by the RIICO at Sitapura Industrial Area, Jaipur on the following conditions namely:

(i) that the allottees in the above SEZ shall start commercial production within three years from the date of possession of the property;

(ii) that in case of change in land use of area purchased/allotted to the units in SEZ for the common facilities or violation of any condition, the purchaser/allottee shall be liable to pay the SD at that point of time with interest thereon, as may be decided by the Government from time to time from the date of change of land use or violation of any of the conditions by the unit holder.

During test check of records of SR, Sanganer-I, it was noticed (July 2012) that in three cases the first allottees (allotment between February 2004 and May 2006) sold the SEZ plots (between June 2006 and October 2011) to other entrepreneurs without establishment of units within the prescribed period as per conditions laid down vide Government's notification dated 1 March 2003. The SR did not recover SD exempted at the time of initial allotment with interest thereon as per notification, in violation of condition mentioned in the notification. This resulted in non-recovery of SD of ₹ 7.78 lakh and interest of ₹ 9.30 lakh aggregating to ₹ 17.08 lakh.

The matter was brought to the notice of the Department (August 2012) and reported to the Government (July 2013). The Government replied (August 2013) that cases had been registered with DIG (Stamps).

CHAPTER-VI

STATE EXCISE

CHAPTER-VI: STATE EXCISE

6.1 Tax administration

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

6.2 Trend of receipts

Receipts from state excise during the years from 2008-09 to 2012-13 along with the total tax receipts of the State during the same period have been exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage share of 3 in 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2008-09	2,025	2,169.90	(+) 144.90	(+) 7.16	14,943.75	14.52
2009-10	2,200	2,300.48	(+) 100.48	(+) 4.57	16,414.27	14.02
2010-11	2,460	2,861.41	(+) 401.41	(+) 16.32	20,758.12	13.78
2011-12	2,950	3,287.05	(+) 337.05	(+) 11.43	25,377.05	12.95
2012-13	3,850	3,987.83	(+) 137.83	(+) 3.58	30,502.65	13.07

Though in absolute terms, receipts of state excise have registered increase over the years, yet the percentage of revenue of State Excise Department to total tax revenue collection in the State has decreased when compared to the year 2008-09. During 2008-09, receipt of state excise accounted for 14.52 *per cent* of total tax revenue of the State, while in the year 2012-13, they accounted for 13.07 *per cent* of total tax receipts of the State.

6.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 amounted to ₹ 219.12 crore, of which ₹ 203.36 crore were outstanding for more than five years. This indicates that the Department had not taken effective steps for recovery of arrears. The following table depicts the position of arrears of revenue

as on 31 March 2013:

(₹ in crore)

Year of arrear	Total arrears as on 1 April 2012*	Recovery during the year 2012-13	Recoveries outstanding as on 31 March, 2013
Upto 2007-08	205.14	1.78	203.36
2008-09	0.37	0.07	0.30
2009-10	0.28	0.03	0.25
2010-11	9.95	8.24	1.71
2011-12	19.74	6.24	13.50
Total	**235.48**	**16.36**	**219.12**

* Includes additional demand due to Audit Paras, court cases etc. Some of these demands were pertaining to previous years but raised during the financial year 2012-13.

The chances of recovery of arrears of ₹ 203.36 crore outstanding for more than five years are bleak. It is recommended that the Government may take appropriate action for immediate recovery of the arrears.

6.4 Cost of collection

The gross collection of the state excise receipts, expenditure incurred on collection of state excise revenue and the percentage of such expenditure to gross collection during the years 2008-09 to 2012-13 along with the relevant all India average percentage of expenditure on collection to gross collection for the same period are as follows:

(₹ in crore)

Sl. no.	Year	Gross collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage
1.	2008-09	2,169.90	64.46	2.97	3.66
2.	2009-10	2,300.48	85.74	3.73	3.64
3.	2010-11	2,861.45	87.45	3.06	3.05
4.	2011-12	3,287.05	82.92	2.52	2.98
5.	2012-13	3,987.73	82.66	2.07	NA

The percentage of expenditure on collection of state excise revenue to gross collection was lower than the all-India average percentage during the years 2008-09 and 2011-12, but was marginally higher during the years 2009-10 and 2010-11.

6.5 Impact of Audit Reports

Cases of non-levy/short-levy, non-realisation/short-realisation, under assessment/loss of revenue, application of incorrect rate of tax, incorrect computation of tax *etc.* with revenue implication of ₹ 86.42 crore in 15 paragraphs were pointed out through the Audit Reports of the past five years. Of these, the Department/Government had fully/partly accepted audit observations in 11 paragraphs involving ₹ 6.14 crore and had since partly

recovered (December 2013) ₹ 3.38 crore in 8 paragraphs as shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Recovery	
	Number	Amount	Number	Amount	Number of paragraphs	Amount
2007-08	4	29.18	4	0.96	4	0.95
2008-09	4	45.44	2	0.42	2	0.42
2009-10	2	1.88	-	0.09	-	0.09
2010-11	1	7.91	1	2.67	1	1.85
2011-12	4	2.01	4	2.00	1	0.07
Total	**15**	**86.42**	**11**	**6.14**	**8**	**3.38**

The Department has recovered 55.05 *per cent* of the accepted amount.

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

6.6 Working of Internal Audit Wing

Financial Adviser is the head of the Internal Audit Wing in the State Excise Department. Two internal audit parties are working in the Department, each headed by an Assistant Accounts Officer. No audit plan showing units to be audited during the year was prepared by the Department. The position of last five years of internal audit was as under:

Year	Units pending for audit	Units added during the year	Total units	Units audited during the year	Units remaining unaudited	Percentage of units remaining unaudited
2008-09	77	40	117	29	88	75
2009-10	88	40	128	58	70	55
2010-11	70	40	110	83	27	25
2011-12	27	40	67	60	7	10
2012-13	7	41	48	41	7	15

It was also noticed that 937 paragraphs were outstanding at the end of 2012-13, of which 242 paragraphs were outstanding for more than five years. Year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	upto 2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	Total
Paras	242	74	98	222	301	-	**937**

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

The Government may consider strengthening the functioning of the Internal Audit Wing in order to take appropriate measures for plugging the leakage of revenue and for ensuring compliance with the provisions of the Act/Rules.

Appropriate instructions may also be issued to the Department for taking prompt action on the reports of the Internal Audit Wing.

6.7 Results of Audit

Test check of the records of 20 units of the State Excise Department conducted during the year 2012-13 revealed non- recovery/short recovery/loss of excise duty and licence fee and other irregularities involving ₹ 20.15 crore in 1,151 cases which fall under the following categories:

Sl. No.	Category	Number of cases	Amount (₹ in crore)
1.	Non-realisation/short realisation of excise duty and licence fee	569	14.31
2.	Loss of excise duty on account of excess wastage of liquor	162	4.95
3.	Other irregularities	420	0.89
Total		**1,151**	**20.15**

The Department accepted deficiencies in 891 cases involving ₹ 28.59 crore, of which 487 cases involving ₹ 6.03 crore had been pointed out in audit during 2012-13 and the rest in earlier years. The Department recovered ₹ 22.63 crore in 500 cases of which 102 cases involving ₹ 0.08 crore had been pointed out in audit during the year 2012-13 and the rest in earlier years.

In one case the Department recovered entire amount of ₹ 50.30 lakh after issue of draft paragraph to the Department and the Government.

A few illustrative audit observations involving ₹ 8.08 crore are mentioned in the succeeding paragraphs.

6.8 Functioning of Excise Preventive Force

6.8.1 Introduction

The most important task of the State Excise Department (Department) is to prevent offences committed under the Rajasthan Excise (RE) Act, 1950 and the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 and the rules made thereunder. Excise Preventive Force (EPF) is responsible for prevention of illegal production and effective control over sale, storage and transportation of illicit liquor and intoxicating substances. The main functions of EPF includes patrolling, raids, planning and execution of joint operation with circle inspectors of the Department and police to prevent such illicit activities.

The EPF is under the overall control of Excise Commissioner (EC) who is assisted by Additional Excise Commissioner (EPF). The other important functionaries are Joint Excise Commissioner (EPF), Deputy Excise Commissioner (EPF), 8 Excise Officers (EOs) at 8 Zones[1], 34 Assistant Excise Officers (AEOs) and 206 Patrolling Officers (POs). There are 150 EPF Stations and 30 check posts. All the EPF stations and check posts are assigned with 1 post of Jamadar and 10 posts of Constables/Drivers each.

6.8.2 Scope of Audit

Audit test checked records of 2010-12 pertaining to 52 EPF Stations coming under 17 AEOs and 7 Zones[2]. The test check was conducted with a view to ascertain the efficiency and efficacy of the EPF in controlling illegal production, sale, transport and storage of liquor and other intoxicating substances through patrolling, raids and detection of cases in accordance with RE Act 1950, NDPS Act, 1985 and rules made thereunder, Excise Manual and State Excise Policies.

6.8.3 Seizure of illicit intoxicating goods by EPF

Scrutiny of Administrative Reports of the Department disclosed that 1.24 lakh bottles of illicit liquor, 41.48 lakh litres of wash, 0.79 lakh litres of spirit, 7.41 lakh bottles of Indian Made Foreign Liquor (IMFL), 1.84 lakh bottles of country liquor (CL), 2.78 lakh bottles of beer and 35,709 kg of lanced poppy heads (LPH) were seized in excise raids conducted by POs and Excise

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[1] Ajmer, Bharatpur, Bikaner, Jaipur Rural, Jaipur City, Jodhpur, Kota and Udaipur.

[2] **Ajmer Zone** – Ajmer (Ajmer South, Beawar and Kekri EPF Stations), Bhilwara (Bhilwara City, Bhilwara Rural and Mandalgarh EPF Stations) and Tonk (Tonk City, Devli and Malpura EPF Stations) districts.

Bharatpur Zone – Bharatpur (Bharatpur City, Bharatpur Rural, Deeg and kama EPF Stations), Dholpur (Badi and Dholpur City EPF Stations) and Karoli (Hindaun City, Kaila Devi, Karoli, and Toda Bheem EPF Stations) districts.

Bikaner Zone – Bikaner (Bikaner Rural, Lunkarnsar and Nokha EPF Stations), Hanumangarh (Hanumangarh, Nohar and Sangriya EPF Stations) and Shri Ganganagar (Anupgarh, Shri Ganganagar Rural and Shri Karanpur EPF Stations) districts.

Jaipur City Zone – Adarsh Nagar, Ashok Nagar and Mansarovar South EPF Stations.

Jaipur Rural Zone – Chomu, Dudu and Kotputli EPF Stations.

Jodhpur Zone – Jodhpur (Falodi, Jodhpur East and Jodhpur West EPF Stations) and Sirohi (Abu Road, Revdar and Sirohi EPF Stations) districts.

Kota Zone – Baran (Baran, Chhabra and Shahbad EPF Stations), Bundi (Bundi, Lakheri and Nainwa EPF Stations), Jhalawar (Bhawani Mandi, Eklara and Jhalawar EPF Stations) and Kota (Gumanpura, Nayapura and Ramganj Mandi EPF Stations) districts.

Inspectors during 2010-12. The seizure of huge quantity of wash and spirit by the Department indicated that there was high magnitude of illegal liquor distillation in the state.

It was also noticed that the State Police Department seized 2.39 lakh kg of LPH, 1,375 kg of opium and 95 kg of other intoxicating drugs during 2010 and 2011. Narcotics Control Bureau in its Annual Report 2011 stated that the drugs trafficking scenario in India was mainly because of diversion from licit sources and illicit production.

A similar paragraph on 'Receipts from Sale and Consumption of LPH' was featured in the Audit Report (State Receipts) for the year ended March 2012 concerning rampant illegal trafficking of LPH within the State.

Although the EPF's functions involved prevention of illicit distillation, smuggling, sale and storage of illicit liquor, opium and other intoxicating substances, yet it was not able to prevent such illicit activities. Some of the audit findings are mentioned in the succeeding paragraphs:

Audit findings

6.8.4 Performance of EPF stations

The Patrolling Officer (PO) is the incharge of an EPF Station and has to prevent smuggling and illegal cultivation of opium and hemp plants, and illicit distillation within his jurisdiction.

6.8.4.1 Regular Patrolling by POs

As per Para 23.7 of Excise Manual, PO of each EPF Station has to conduct minimum 15 tours per month during day time and 15 tours per month at night. Day to day activities of each movement of PO are recorded in the movement register maintained at each EPF Station with full particulars of the personnel, time of outward and inward movement, vehicle used and purpose of visit.

Test check of the movement registers and log book of vehicles for the years 2010-11 and 2011-12 of the selected EPF Stations disclosed that

- each PO had fulfilled the required norms of 15 days' patrolling during daytime but had not carried out 15 days of night patrolling. Though the entries of patrolling were made in the movement register, further activities done during patrolling were not recorded in the movement registers. In its absence, the possibility that entries were made in the movement register without conducting actual patrolling could not be ruled out.
- in three EPF Stations (Ajmer Rural, Kekri and Chhabra), 11 personnel who were on leave or absent from duty, were shown as part of the patrolling team in the movement registers on 50 occasions.

- vehicles of three EPF Stations (Ajmer Rural, Nohar and Sriganganagar) for which entries were made in movement registers were found to be non-operational or engaged for other purposes (as per the vehicle log book) on the dates of such patrolling.
- vehicles of two EPF Stations (Ajmer Rural and Sriganganagar) were shown to be used in patrolling in log books but no movement about such patrolling was found mentioned in the movement registers.
- three EPF stations of AEOs, Bikaner and Kota for the year 2011-12 had not conducted any patrolling during nine months even though required staff were posted at these EPF stations. Though the fact of non-conducting of patrolling was reported to the AEO and EO through monthly reports, no action was taken by the higher authorities to find out the reasons thereof.

The above findings clearly indicate that incorrect entries of patrolling were made in movement registers and vehicle log books to show that the staff were involved in patrolling and that the minimum prescribed mileage of the vehicles were covered. There was no control mechanism to check the correctness and genuineness of entries made in such records.

The Department may ensure that the movement registers and log books are verified on regular basis to ensure genuineness of the entries made in such records.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

6.8.4.2 Improper maintenance of records

As per Excise Commissioner's order dated 9 May 2011, each EPF station is required to maintain 11 registers (in proforma EPFC-1 to EPFC-11) and make necessary entries/take necessary action unfailingly. AEO and EO offices are also to keep 8 registers (in proforma EPFC-4 to EPFC-11) for each EPF station under their jurisdiction.

During test check of EPFC registers, it was noticed that except EPFC-1 and EPFC-2 registers, no registers were maintained in the prescribed manner at any of the selected EPF Stations, AEO and EO offices. It was noticed that most of the staff of EPF Stations were retired army men who were not provided any training regarding functioning of the EPF Station. As a result, most of the columns of EPFC proforma were found to be either blank or incorrect.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

6.8.4.3 Raids conducted by the POs of EPF Stations

As per order issued (30 April 2009) by Director Enforcement (DE), each PO has to conduct minimum 20 raids per month in the sensitive/very sensitive areas and try to seize maximum IMFL/CL/illicit liquor.

- Test check of the movement registers of the selected EPF Stations disclosed that no distinction between patrolling and raids was made in the movement registers. The staff of EPF Stations treated patrolling and raids interchangeably and reported all entries made in the movement register as raids conducted by the EPF Station to higher authorities in monthly reports. There was no control mechanism to check the correctness and genuineness of entries made in movement register and monthly report submitted to higher authorities.
- The Department had identified and uploaded list of 265 sensitive places of production, collection and sale of illicit liquor in the State on its website. It was noticed that only 17 out of 809 registered cases in Kota Zone were detected in sensitive places during the period of two years. Further, not a single case was detected by the POs of two EPF Stations (Baran and Shahbad) of Baran district and two EPF Stations (Bundi and Nainwa) of Bundi district despite the fact that 6 villages in Baran and 12 villages in Bundi districts were identified by the Department as sensitive.

  It was further noticed that the Department did not periodically update the list of sensitive places. The monthly reports indicated that regular patrolling was done in these identified sensitive areas and that no case was found regarding sale of illicit liquor. However, no effort was made by the Department to remove these areas from the list of sensitive places.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

6.8.4.4 Case registration

As per order (Sl. No. 4.9) dated 30 April 2009 of the Enforcement Director, State Excise, Rajasthan, each PO of EPF has to register 10 cases per month.
Further, as per orders dated 26 November 2010 of the EC Rajasthan, the cases registered in Excise Circles and EPF Stations are classified into two categories - ordinary report cases and special report (SR) cases. Seizures of intoxicating substances such as IMFL/CL/Illicit in excess of 50 litres and beer in excess of 96 bottles etc. are classified under SR cases.

As mentioned above, the EPF Stations did not carry out regular patrolling and raids which reflected poor performance of EPF Stations in detection and registration of cases of illicit liquor distillation, sale and smuggling of illicit liquor in the State. Audit findings are discussed in the succeeding paragraphs:

- The classification of cases registered and intoxicating substances seized in 16 EPF Stations under 5 AEO offices during the period 2010-12 is mentioned below:

Sl. No.	Name of AEO Offices (EPF Stations)	Seizure	Illicit / hathkad liquor	Possession of liquor more than prescribed quantity	Possession of liquor of other States	Wash/ Spirit/ Hemp	Breach of licence conditions
1	Bharatpur (4)	No. of cases	47	37	41	6	2
		Seized quantity	418.70 BL	3873.98 BL	363.00 BL	4200 BL wash &2.6 kg hemp	-
2	Dholpur (2)	No. of cases	35	14	16	-	-
		Seized quantity	218.50 BL	117.57 BL	115.11 BL	-	-
3	Karoli (4)	No. of cases	3	24	17	-	2
		Seized quantity	16.00 BL	1341.30 BL	217.39 BL	-	-
4	Jaipur City (3)	No. of cases	398	46	64	-	1
		Seized quantity	2031.50 BL	8058.59 BL	20375.61 BL	-	-
5	Jaipur Rural (3)	No. of cases	156	55	62	3	5
		Seized quantity	667.75 BL	4511.43 BL	43877.04 BL	48.5 ton wash & 10800 BL spirit	-
	Total (16 EPF Stations)	**No. of cases**	**639**	**176**	**200**	**9**	**10**
		Seized quantity	**3352.45 BL**	**17902.87 BL**	**64948.15 BL**	**52.7 ton wash 10,800 BL spirit & 2.6 kg hemp**	-
	Percentage	**No. of cases**	**61.80**	**17.02**	**19.34**	**0.87**	**0.97**
		Seized quantity	**3.89**	**20.77**	**75.34**	**-**	**-**

The table above shows that number of cases registered under illicit liquor was the highest (61.80 percent of the total cases) whereas quantity seized in such cases was very low (3.89 percent of the total seizure).

- Analysis of cases registered at the selected EPF Stations disclosed that almost 80 *per cent* of cases registered by these stations pertained to possession and sale of illicit liquor. The remaining cases were of sale of liquor of other states.
- The POs of only four EPF Stations[3] could achieve their targets of detection and registration of cases i.e. 120 cases per year. Further, even one case per month was not detected in 9 EPF Stations[4] during 2010-11 and in 12 EPF Stations[5] during 2011-12. Further, not a single case was detected at Eklera EPF Station during 2010-11.

[3] Hanumangarh, Sangriya, Abu Road and Mansarovar South EPF Stations during 2010-11; Hanumangarh, Anupgarh, Abu Road and Mansarovar South EPF Stations during 2011-12.

[4] Revdar, Baran, Lakheri, Dholpur City, Kama, Karoli, Kaila Devi, Hindaun City and Toda Bheem EPF Stations.

[5] Bikaner Rural, Lunkarnsar, Revdar, Baran, Shahbad, Nainwa, Lakheri, Eklera, Kama, Kaila Devi, Hindaun City and Toda Bheem EPF Stations.

- From scrutiny of the FIR (first investigation report) files maintained at AEO Bikaner, it was noticed that 11 FIRs of four EPF Stations (Bikaner Rural-5, Khajuwala-1, Lunkaransar-4 and Nokha-1) were submitted without signature of POs and the same were accepted by AEO, Bikaner. It shows that FIRs were prepared in a casual manner and the same were accepted by AEO without checking.
- In comparison to total cases registered during the period 2010-12, percentage of SR cases ranged between 1.64 and 13.88 *per cent* as detailed below:

Name and no. of selected			No. of total registered cases	No. of SR cases	Percentage of SR cases
Zones	**AEO Office**	**EPF Stations**			
Ajmer	3	9	1050	18	1.71
Bharatpur	3	10	244	4	1.64
Bikaner	3	9	1384	77	5.56
Jaipur City	1	3	509	16	3.14
Jaipur Rural	1	3	281	39	13.88
Jodhpur	2	6	821	68	8.28
Kota	4	12	809	20	2.47
Total	**17**	**52**	**5,098**	**242**	**4.75**

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

6.8.4.5 Follow up of cases

As per Section 67(2) of RE Act 1950, no cognizance shall be taken by the Magistrate after expiry of one year from the date of alleged commission of offence under this Act except with the special sanction of the State Government. According to Section 173(2) of Criminal Procedure Code (CrPC), report of police officer on completion of investigation is to be forwarded to the Magistrate empowered to take cognizance of the offence.

Under Section 173(8) of CrPC, nothing shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate. If the officer incharge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence.

Director Enforcement issued (25 May 2009) instructions to all EPF Officers to complete further investigation of pending SR cases in which permission had been granted under Section 173(8) of CrPC to arrest the culprits.

During test check of 'Abhiyog Registers' and files pertaining to registered cases of selected EPF Stations, it was noticed that the cases were prepared in a

routine manner without conducting in-depth investigation. As already pointed out in para 6.8.4.4, maximum number of cases were registered for possession of very low quantity of illicit liquor/*hathkad* liquor.

The files pertaining to registered cases pending before court were not made available to audit. Scrutiny of 20 case files wherein the decision of judicial magistrate had been given in four AEO offices (Bharatpur-8, Dholpur-3, Jaipur Rural-5 and Jaipur City-4) disclosed that EPF officials did not make any enquiry to find out the source of supply of such liquor to culprits and the investigation reports ended merely with the conclusion regarding possession of illicit liquor/ *hathkad* liquor by the accused. In a majority of registered cases seizure was always very low in quantity. These cases were decided by the judicial magistrate after acceptance of crime by the accused on payment of prosecution cost ranging between ₹ 200 and ₹ 5,000 and allowing the benefit of Sections 4 and 5 of the Indian Offenders and Probation Act, 1958 under probation for a period ranging between one and three years on production of *Jamanat* or *Muchlka* of ₹ 5,000 to ₹ 10,000 according to gravity of cases. Cases pending for final decision in five AEO offices at the end of year 2012 is summarised below:

Name of AEO Offices	Bharatpur	Dholpur	Karoli	Jaipur City	Jaipur Rural
No. of cases pending for final decision	181	122	107	2,694	448

It was further noticed that 27 cases registered during 2007-08 to 2011-12 were pending under Section 173(8) of CrPC in EPF Stations of five AEO offices (Ajmer-16, Baran-2, Bhilwara-2, Jhalawar-4 and Sriganganagar-3) wherein the report of enquiry officer on completion of investigation was submitted in courts under Section 173(2) of CrPC and permission to keep the cases open for further enquiry/collection evidences was obtained from higher authorities. However, further investigation was not carried out by enquiry officers in these cases even after a lapse of one to five years.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

The officials of EPF may conduct enquiries to locate the source of supply of illegal liquor to alleged offenders.

6.8.4.6 Check posts

The Department established 30 temporary check posts in form of tents at various entry points/border areas of the State for prevention of illegal trafficking of intoxicating substances. However, it was noticed that though the State borders were connected through different routes, these temporary structures remained static. There were no records either at check posts or PO/AEO offices to show that regular patrolling/nakabandi was done at different routes other than where the check posts were located.

During test check of records of 12 check posts under the selected units, it was noticed that only attendance register of the personnel was being maintained. No other records such as register for entering the details of vehicles with

intoxicating substances passing through check posts, register of movement of personnel, register of visit of concerned PO at check posts, register of inspection of check posts by higher authorities etc. were found maintained. In the absence of such records, audit was not in a position to make any detailed comment on the functioning of check posts.

It was also noticed that 241 cases in 2010-11 and 165 cases in 2011-12 of possession of illegal liquor from other states were registered in selected EPF stations which showed that supply of liquor from other states was available all over the state by evading the check posts, EPF Stations, excise circle offices, police stations etc. This indicates that the staff at check posts as well as EPF stations had very little control over smuggling or the information network of the EPF was deficient. No monitoring mechanism was put in place to evaluate and examine the performance of check posts.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

6.8.4.7 Manpower constraints at EPF stations

On scrutiny of sanctioned and working strength of POs at 141 working EPF Stations of the State during 2011-12, it was noticed that only 23 POs of the Department were posted whereas 44 POs were taken on deputation from Police Department and additional charge of remaining 74 POs were allotted to POs or Excise Inspectors of nearby Stations along with their regular charge as detailed below:

During the year 2011-12	No. of EPF Stations	No. of EPF Stations where POs posted			No. of EPF Stations working without POs or with additional charge
		EPF	Police	Total	
Total working EPF Stations in the State	141	23	44	67	74
EPF Stations selected for audit	52	10	14	24	28

In the absence of posting of regular POs at EPF Stations, the work of patrolling and raids suffered heavily. It was noticed that registration of cases in EPF Stations where no PO was posted was negligible and the staff posted at such EPF Stations remained idle and without proper powers/guidance.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

6.8.4.8 Inadequate training of EPF personnel

Specific training regarding RE Act/Rules, CrPC, Indian Penal Code, NDPS Act/Rules etc. was necessary for EPF staff. During scrutiny of budget allotment and expenditure statements of Enforcement Directorate and EC Office, it was noticed that no allotment under training head was made by Director, Enforcement/EC, Rajasthan from 2005-06 to 2011-12. In the years 2008-09 and 2009-10, ₹ 1,000 each which was allotted for training was not utilised.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

6.8.5 Poor monitoring by AEO/EO of EPF Stations

Work evaluation was not done by higher authorities despite availability of daily and monthly reports regarding activities of each EPF station. It was noticed that monthly reports were prepared in a routine manner and were transmitted from EPF stations to the AE office onward to Zonal office and finally to the EC office. No analysis was done on these reports. No action was found to be taken by the concerned AEO/EO to find out the reasons for non-fulfilment of norms.

Quarterly inspection of each EPF Station by EOs and monthly inspections by AEOs were required to be conducted as per instructions issued by EC in May 2011. Further, as per order dated 7 May 2010 of EC, Rajasthan, Additional Commissioners (AC), Excise Zones were required to inspect the AE Office annually and 25 *per cent* of EPF Stations under their jurisdiction. However, it was noticed that out of 17 AE offices and 52 EPF stations, following inspections were conducted during 2011-12:

Sl. No.	Inspection conducted by	AE offices		EPF stations	
		No. of inspections required as per norms	No. of inspections actually conducted	No. of inspections required as per norms	No. of inspections actually conducted
1	ACs	17	8	13	24
2	EOs	17	Nil	208	6[6]
3	AEOs	-	-	624	8[7]

It would be seen from the above that as against target of 208 and 624 inspections of EPF stations during 2011-12, EOs and AEOs conducted only 6 and 8 inspections respectively. Further, 9 AE offices remained uninspected during the year 2011-12.

It was also noticed that registers maintained at EPF Stations were not inspected monthly/quarterly by AEO/EOs though they were to be inspected monthly by AEO and quarterly by EO concerned and inspection note in this regard was to be recorded in EPFC registers.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

[6] Ajmer Rural, Kekri, Beawar, Baran, Jhalawar and Nokha EPF Stations.
[7] Ajmer Rural, Abu Road, Bhilwara City, Jodhpur Rural, Falodi, Bhawani Mandi, Dudu and Kotputli EPF Stations.

6.8.6 Lack of coordination between EPF Stations and Police Department

As per Excise Manual 1988, it is essential that the officers of the Police and Excise Department should work in tandem in the detection and investigation of excise and opium offences.

Further the State Government issued work plan by order dated 23 December 2008, which was also effective during 2009-10 and 2010-11, to ensure regular strict action against trade of illicit liquor and intoxicating drugs in the State. The theme of execution of the work plan was to develop cooperation among the officers of police, EPF and Excise. According to the work plan of the State Government, incharge of police station, competent officers of EPF and Excise Inspectors had to organise two joint meetings on first and third Wednesday of each month and plan a coordinated action. Point-wise minutes of such meetings were to be furnished to concerned district excise officers (DEOs), POs and police circle officers. DEOs and EOs EPF of each district have to review the report, received from the incharge of police station, on last working day of each month.

During test check of the records of selected EPF stations, it was noticed that no system was evolved in EPF stations to share or exchange the information regarding habitual culprits and suspected places of illicit liquor with police and excise circle offices for the purpose of joint activities or raids in sensitive areas. No information or minutes regarding above meetings were found maintained at EPF stations.

As a result, both the agencies worked separately for the same goal. The number of Excise offences registered by the Police Department in the State was much higher than that of EPF stations which puts a question mark on the efficacy of the functioning of EPF stations. The table below shows the number of cases registered against violation of the RE/NDPS Acts and Rules in the State during calendar year from 2007 to 2012:

	2007	2008	2009	2010	2011	2012
No. of cases registered by the Police Department	10,134	11,473	13,331	12,852	13,532	14,026
No. of cases registered by the EPF Stations	5,970	7,577	7,131	7,009	7,439	11,076[8]

It is clear from the above table that the Police Department was more active in the detection and registration of cases whereas the EPF stations performed poorly. The following table further shows the comparative position of cases registered in 13 EPF Stations of four AE offices and Police Stations

[8] Includes cases registered in Circle Offices of the Department.

in the same jurisdiction during the period 2010-12:

Sl. No.	Name of AEO office	No. of EPF Stations selected	No. of registered cases during 2010-12	
			At EPF Stations	At Police Stations
1	Bharatpur	4	133	696
2	Dholpur	2	65	352
3	Karoli	4	46	98
4	Jaipur City	3	509	782
	Total	**13**	**753**	**1,928**

The registration of high number of cases in the State through Police and the EPF Stations every year indicates that there was wide network of illegal trafficking of liquor and other intoxicating substances in the State which the Department had failed to control.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

The Department may evolve a mechanism to share or exchange information with the Police Department for effective control of excise offences.

6.8.7 Navjeevan Yojana

As per the Excise and Temperance Policy 2009-10, the State Government launched (25 May 2010) a scheme 'Navjeevan Yojana' for social and economic rehabilitation of the families/ communities of rural and suburban area of the State who were traditionally engaged in manufacturing and selling of illicit liquor. The Government decided to spend one *per cent* of excise revenue through the scheme 'Navjeevan Yojana' for rehabilitation of such families who were not withdrawing themselves from the trade of illicit liquor despite taking legal action against them. This scheme was to be executed by 'Social Justice and Empowerment Department' (SJED) from 2011-12.

Scrutiny of cases registered during 2010-12 at Jaipur South EPF Station disclosed that 233 cases (out of 270 cases) related to illicit liquor of which 185 cases were registered against women of a particular community traditionally engaged in manufacturing and selling of illicit liquor. It was also seen that maximum cases were registered against women (185 cases) and some of them were already booked in more than two to six cases each. However, it was seen that the EPF stations had not forwarded their names for their rehabilitation by SJED. The EPF Station also did not make any effort for prevention of repeated involvement of people/community in manufacture and sale of illicit liquor.

It was also seen that though the scheme envisaged budget provision of one *per cent* of excise revenue for 'Navjeevan Yojana', the Department provided only ₹ 18.71 crore against the targeted provision of ₹ 54.10 crore during 2010-12. Further scrutiny revealed that out of ₹ 18.71 crore, only ₹ 7.98 crore was utilised.

Further, no person was allowed benefit under the scheme in 18 out of 34 AEOs during 2011-12. Details of benefit provided to people/community involved in manufacture and sale of illicit liquor were not provided to audit by SJED.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

The EPF stations may forward the names of the persons who are traditionally involved in the trade of illicit liquor to the SJED for their rehabilitation under the scheme.

6.8.8 Conclusion

It was noticed that the staff of EPF Stations treated patrolling and raids interchangeably and reported all entries made in the movement register as raids conducted by the EPF Station to higher authorities. Inaccurate entries of raids in movement registers and log books were made and there was no control mechanism to check the correctness and genuineness of entries made in such records. POs of selected 48 EPF Stations (out of 52) could not achieve their targets of detection and registration of the cases i.e. 120 cases per year. The performance of EPF stations regarding SR cases was dismal and the percentage of SR cases ranged between 1.64 to 13.88 per cent in comparison to total cases registered during the period 2010-12. Thus, most of the cases registered at EPF Stations were ordinary report cases with nominal quantity of seizure. The Department did not periodically examine the list of sensitive places of production, collection and sale of illicit liquor in the State to ensure that they indeed continued to be sensitive. The enquiry officers did not complete investigation even after lapse of one to five years. There was no control mechanism to evaluate the performance of check posts. There was no system in place in EPF stations to share or exchange information regarding habitual culprits and suspected places of illicit liquor with State Police Department.

There was high magnitude of illicit distillation and sale of illicit liquor, smuggling of opium, LPH and other intoxicating substances and the EPF failed to effectively discharge its functions.

6.9 Other Audit observations

During test check of records, several cases of non-recovery /short recovery of excise revenue came to notices which are mentioned in the succeeding paragraphs of this chapter. Some of these omissions were pointed out in the earlier years also. However, not only do the irregularities persist, but they also remain undetected till the next audit is conducted. These cases are illustrative only and are based on test check of the records produced to Audit. There is a need for the Government to improve the internal control system including strengthening of internal audit in order to avoid recurrence of such cases.

6.10 Non-observance of the provisions of Act/Rules

The Rajasthan Excise Act and Rules provide for:

(a) levy of brand fee at the prescribed rate;

(b) levy of special vend fee at the prescribed rate; and

(c) levy of excise duty on beer not delivered at the destination.

It was noticed that the District Excise Officers did not observe the above provisions in the cases mentioned in the paragraphs 6.10.1 to 6.10.3.

6.10.1 Non-recovery of brand fee

As per Rule 3(2) of the Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail off Licences) Rules, 1982, annual brand fee of ₹ 50,000 per brand shall be charged before import by wholesaler from units not having bonded warehouse in Rajasthan. Further, notification no. F.4(85) FD/Ex/2003 dated 19 February 2004 (effective from 1 April 2004), exempts wholesale licensees of IMFL and beer from payment of brand fee in excess of ₹ 10,000 of wine, ready to drink (RTD) liquor and foreign liquor bottled in other country (popularly known as Bottled-In-Origin or BIO).

During scrutiny of 1,002 permits, issued by District Excise Officer (DEO), Jaipur City to M/s Rajasthan State Beverage Corporation Limited (RSBCL), for brands of IMFL/beer/wine/BIO imported from other States during 2011-12, it was noticed (December 2012 and October 2013) that M/s RSBCL which was having individual licence for wholesale vend of IMFL/ beer/ wine/ RTD/ BIO, imported 56 brands of IMFL/ beer and 102 brands of wine/BIO for its various depots from other States during the year 2011-12. The Department did not charge the brand fee of ₹ 28.00 lakh on IMFL/beer and ₹ 10.20 lakh on wine/BIO.

When it was pointed out (between January and November 2013), the Government stated (February 2014) that the brand fee was being recovered as per provisions under Rule 69(3) of the Rajasthan Excise Rules, 1956. The reply further stated that confusion had arisen because Rule 3(2) of Rajasthan Foreign Liquor Rules, 1982 was not deleted so far and that the deletion of the said Rule is under consideration of the Government.

The fact, however, remains that Rule 3(2) of the Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail off Licences) Rules, 1982 was in force during the period and as such brand fee of ₹ 38.20 lakh was leviable and recoverable.

6.10.2 Non-levy of special vend fee

As per sub-rule (6) (inserted with effect from 1 April 2011) of Rule 69 of the Rajasthan Excise (Amendment) Rules, 2011 retail off sale of Indian made foreign liquor (IMFL) and Indian made beer attract levy of special vend fee (SVF) at the rates of ₹ 10 and ₹ 5 per bulk litre (BL) respectively.

During test check of records of District Excise Officers (DEO), Jaipur City and Bikaner, it was noticed (between August and December 2012) that wholesale depots of Canteen Store Department (CSD) located at Jaipur and Bikaner sold 67.98 lakh BL IMFL and 6.88 lakh BL beer to its retail off licencees (unit run canteens) in the State during the year 2011-12. However, SVF of ₹ 6.80 crore on IMFL and

₹ 0.34 crore on beer was neither deposited by the CSD nor demanded by the Department. This resulted in non-levy of SVF amounting to ₹ 7.14 crore.

The matter was brought to notice of the Department and the Government (between September 2012 and October 2013). The Department stated (October 2013) that recovery was being made regularly since 5 November 2012 and the matter relating to recovery of previous period was under examination. Further development was awaited (February 2014).

6.10.3 Non-levy of excise duty on beer not delivered at the destination

Rule 41 of the Rajasthan Brewery Rules, 1972 provides that no beer shall be removed from a brewery until the duty imposed under Section 28 of the Rajasthan Excise Act, 1950 has been paid or until a bond under Section 18 of the Act has been executed by the brewer for export of beer outside the State. Condition no. (2) of the bond provides that if the quantity of beer mentioned in the bond has not been delivered at the destination, the brewer is liable to pay for any loss of duty which the Government may suffer by reason of such non-delivery or short delivery and will have to pay on demand the duty at the rate in force.

During scrutiny of records of five breweries[9] for the period 2010-11 and 2011-12 under DEOs Alwar and Behror, it was noticed that during export of beer outside the State under bond, 1.32 lakh BL (16,233 cartons) beer involving excise duty of ₹ 55.27 lakh were not delivered at the destination. Neither was the duty paid by the brewers nor was it demanded by the Department. This resulted in non-levy of state excise duty of ₹ 55.27 lakh.

After it was pointed out (between October 2012 and October 2013), the Department stated (December 2013) that ₹ 22.30 lakh had been recovered and action had been initiated for recovery of the remaining amount.

[9] M/s Carlsberg India Pvt. Ltd. Alwar, M/s United Breweries Ltd. Bhiwadi, M/s Rochees Breweries Ltd. Neemrana, M/s Mount Shivalik India Pvt. Ltd. Behror and M/s Deewan Modern Breweries Ltd. Behror.

CHAPTER-VII

NON-TAX RECEIPTS

CHAPTER-VII: NON-TAX RECEIPTS

7.1 Introduction

Non-tax revenue of the State Government mainly comprises receipts from interest, mines and minerals, miscellaneous general services, water resources, public works, police, medical and health, forestry and wildlife. The total revenue and non-tax revenue raised by the State Government during the years 2008-09 to 2012-13 were as under:

(₹ in crore)

Year	Total revenue raised by the State	Total non-tax revenue of the State	Percentage of non-tax revenue to total revenue
2008-09	18,832.21	3,888.46	20.6
2009-10	20,972.49	4,558.22	21.7
2010-11	27,053.20	6,294.12	23.3
2011-12	34,552.15	9,175.10	26.6
2012-13	42,636.24	12,133.59	28.5

Share of non-tax revenue has been growing steadily in comparison to total revenue realised during last five years ending March 2013 due to receipt of royalty on crude oil.

7.2 Analysis of arrears of revenue

The arrears of revenue of mining receipts (excluding arrears of illegal excavation/despatch of minerals) as on 31 March 2013 amounted to ₹ 451.84 crore, of which ₹ 72.11 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue as on 31 March 2013.

(₹ in crore)

Year of arrear	Total arrears as on 1 April 2012	Recovery during the year 2012-13	Recoveries outstanding as on 31 March 2013
Up to 2007-08	74.50	2.39	72.11
2008-09	79.82	2.67	77.15
2009-10	96.49	3.55	92.94
2010-11	107.22	5.72	101.50
2011-12	134.56	26.42	108.14
Total	**492.59**	**40.75**	**451.84**

The efforts for recovery of arrears of ₹ 72.11 crore which are outstanding for five years or more may be made or else money due to Government will be lost.

It is recommended that the Government may take appropriate action to recover the arrears.

7.3 Impact of Audit Reports

During last five years, cases of non-levy/short-levy, non-realisation/short-realisation, underassessment/loss of revenue, application of incorrect rate of royalty, incorrect computation of royalty *etc* with revenue implication of ₹ 1422.70 crore in 71 paragraphs were pointed out through the Audit Reports. Of these, the Department/Government had accepted audit observations in 48 paragraphs involving ₹ 361.66 crore and has since recovered ₹ 31.27 crore in 29 paragraphs (December 2013) as shown in the following table:

(₹ in crore)

Year of Audit	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number of paragraph	Amount
2007-08	10	275.30	10	23.86	6	4.60
2008-09	27	259.67	19	22.46	16	18.82
2009-10	6	410.16	5	276.67	2	4.74
2010-11	13	158.00	4	1.24	3	0.67
2011-12	15	319.57	10	37.43	2	2.44
Total	**71**	**1422.70**	**48**	**361.66**	**29**	**31.27**

Amount of recovery is far less than the accepted amount. The Department stated that in some cases recovery had been stayed by the judicial authorities, while in others, demands were pending at various stages of recovery. The Government may initiate a review of all the cases accepted by it to recover the remaining amount of ₹ 330.39 crore.

7.4 Working of Internal Audit Wing

Internal audit is an important mechanism to ensure that the Departmental operations are carried out in accordance with the applicable laws, regulations and approved procedures in an economical, efficient and effective manner, that subordinate offices are maintaining various records, registers/account books properly and accurately and that adequate safeguards are being taken against non-collection/short collection or evasion of revenue.

Scrutiny of records of the Director, Mines and Geology (DMG), Udaipur disclosed that audit of almost all the mining units was pending since 2004-05. In absence of internal audit the Departmental authorities were not aware of the areas of the weakness in the system which allowed evasion/leakage of revenue. The matter was pointed out in the Comptroller and Auditor General's Audit Report 2011-12. However, no action was taken by the Department.

7.5 Results of Audit

Test check of the records of the Department of Mines and Geology and the Department of Petroleum conducted during the year 2012-13 disclosed non-recovery/short recovery of revenue amounting to ₹ 1,071.58 crore in 4,716 cases, which broadly fall under the following categories:

(₹ in crore)

Sl. no.	Category	Number of cases	Amount
1.	Unauthorised excavation	1,206	710.32
2.	Non/short recovery of dead rent and royalty	530	162.21
3.	Non-levy of penalty/interest	558	20.08
4.	Non-forfeiture of security	16	2.67
5.	Other irregularities	2,406	176.30
	Total	**4,716**	**1,071.58**

During the year 2012-13, the Departments accepted short realisation and other deficiencies of ₹ 126.75 crore in 2,803 cases, of which 498 cases involving ₹ 91.66 crore were pointed out during the year 2012-13 and the others in earlier years. The Departments recovered ₹ 11.28 crore in 1,597 cases, of which 75 cases involving ₹ 0.85 lakh pertained to the current year audit and the others pertained to earlier years.

A few illustrative audit observations involving ₹ 96.04 crore are mentioned in the succeeding paragraphs.

Department of Mines and Geology and Department of Petroleum

7.6 Audit observations

Test check of records of the Department of Mines and Geology and the Department of Petroleum disclosed several cases of non-observance of the provisions of Act/Rules, non-adherence to the Government orders/procedure and other irregularities. A few of these cases are mentioned in the succeeding paragraphs of this chapter. Such omissions are being pointed out in audit every year. However, not only the irregularities persist, but these also remain undetected till the next audit is conducted. There is a need for the Government to improve the internal control system in the Department.

7.7 Non-observance of the provisions of Act/Rules

The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act), Mineral Concession (MC) Rules, 1960, Mineral Conservation and Development (MCD) Rules, 1988, Rajasthan Minor Minerals Concession (RMMC) Rules, 1986 and Marble Development and Conservation Rules (MDCR), 2002 provide for:

(i) levy of royalty at the prescribed rates;

(ii) levy of cost of minerals illegally excavated/despatched;

(iii) levy of interest on delayed payments;

(iv) grant of leases and

(v) conservation of minerals.

The Mining Engineers (ME)/Assistant Mining Engineers (AME) and Departmental authorities did not observe the provisions of the Act/Rules in the cases mentioned in paragraphs 7.7.1 to 7.7.12. This resulted in non-realisation/short-realisation of royalty, non-realisation/short-realisation of cost of mineral and non-levy of interest.

7.7.1 Illegal subletting of lease

Rule 15(1) (b) of RMMC Rules, 1986 provides that the lessee shall not, without the previous consent of the competent authority, enter into or make any agreement, contract or understanding whereby the lessee will or may be directly or indirectly financed to a substantial extent by or under which the lessee's operation or undertakings will or may be substantially controlled by any person or body of persons other than the lessee. Thus transfer of mining rights in any lease without prior permission is altogether prohibited.

Rule 48(5) of the Rules, further, provides that whenever any person, without a lawful authority, raises any mineral from any land and where mineral so raised has already been despatched or consumed, the concerned authorities may recover cost of the mineral along with royalty, the cost of mineral will be computed as ten times of the royalty payable at the prevalent rates.

During test check of the records of ME Sikar, it was noticed (July 2012) that six leases (ML No. 46/99, 47/99, 64/99, 608/07, 609/07, 610/07) of mineral masonry stone near village Raipur Chihala *Tehsil* Dantaramgarh were illegally sublet (June 2009) to three lessees without obtaining prior consent of competent authority. The ME cancelled/ rejected renewal request due to illegal subletting of three leases (ML No. 46/99, 47/99, 64/99) in October 2010. However, the ME did not raise demand for 23,945 MT mineral amounting to ₹ 31.13 lakh which was despatched from these lease areas without authority between June 2009 and October 2010. The ME also did not initiate timely action for taking possession of remaining three leases (608/07, 609/07, 610/07) wherein the lease holders continued illegal excavation and despatched 1,01,734 MT masonry stone costing ₹ 2.10 crore during June 2009 to March 2012.

After this being pointed out (July 2012), ME stated (July 2012) that the demand of ₹ 84.38 lakh had been raised and further action on the remaining demand against defaulting lease holders who had carried out mining between June 2009 to March 2012 would be examined and communicated to audit.

The matter was brought to the notice of the Department and reported to the Government (August 2012). The Government replied (December 2013) that the action for recovery was being initiated, progress of which would be intimated.

7.7.2 Non-observance of provisions of mineral conservation

As per Rule 22 A (1) of the MC Rules, 1960 and Rule 9 of the MCD Rules, 1988, no person shall commence mining operations in any area except in accordance with a mining plan approved under section 5(2)(b) of the MMDR Act. Further, Rule 16 of the MCD Rules, 1988 provides that overburden and waste material obtained during mining operations shall not be mixed with non-salable or sub-grade ores/minerals and they shall be dumped and stacked separately.

Section 21(5) of the MMDR Act, 1957 envisages that the cost of mineral along with royalty shall be recovered in case of unlawful excavation/despatch of the mineral.

During test check of concession files and assessment/returns files of lessees of major minerals in ME, Rajsamand II, it was noticed (March 2013) that two lessees (M/s Usha Lime and Cement Private Ltd and M/s Apec Minerals Industry) excavated and despatched 4,045 MT of soapstone during 2010-11 without approval of mining schemes in respect of two leases (No. 6/99 and 15/03) sanctioned to them. However, the ME, did not even raise the demand for unlawful production amounting to ₹ 22.08 lakh.

Further, one lessee (M/s Usha Lime and Cement Private Ltd.) did not separately stack 14,610 MT Dolomite and 4,566 MT low grade soapstone costing ₹ 69.72 lakh during 2005-10 as per the provisions of MCD Rules, 1988.

The matter was brought to the notice of the Department and reported to the Government in March 2013. The Government replied (December 2013) that mining of major mineral excavated from leased area could not be treated as illegal in view of Government of India's notification dated 26 July 2012. Regarding non-stacking of Dolomite, it stated that Dolomite was being stacked in the leased areas and verification in this regard would be carried out through a high level committee.

The reply is not acceptable as the notification issued by the Government of India dated 26 July 2012 has prospective effect and issue of *ravannas* for despatch of mineral excavated from the area without approval of mining scheme was irregular. The reply regarding verification of stacking of Dolomite is also not acceptable as the mining schemes submitted (March 2011) by the lessee itself mentioned disposal of Dolomite as well as low grade soap stone by way of dumping in the waste.

7.7.3 Execution of excess royalty collection contract (ERCC)/ royalty collection contract (RCC)

Provisions of ERCC/RCC have been laid down in Rules 32 to 37 of the RMMC Rules, 1986.

Rule 33 (A) of the RMMC Rules, 1986 has provision for fixing of reserve price for inviting the tender for ERCC/RCC. Rule 35 (ix) provides that tender opening committee shall provisionally select the highest valid offer given by the tenderer. Further Rule 35 (xii) of the Rules *ibid* provides that competent authority shall take decision for sanction or rejection of the provisionally selected bid.

7.7.3.1 During test check of the records of ME, Karauli, it was noticed (February 2013) that an ERCC was given to M/s Shiva Corporation (India) Limited for sand stone from leases situated in District Karauli at a yearly contract amount of ₹ 3.90 crore which was revised to ₹ 10.61 crore (11 January 2011) for the period from 23 May 2009 to 31 March 2011. Though the contract was going to expire on 31 March 2011, the Department did not initiate timely tender proceedings for award of contract. As a result, during the period from 1 April 2011 to 21 June 2011, the Department operated the check posts through its own staff and collected royalty of ₹ 1.45 crore. The contract was finalized (21 June 2011) and awarded (22 June 2011) to M/s Dharmender Singh for the period from 22 June 2011 to 31 March 2013 on yearly contract amount of ₹ 8.61 crore.

It was noticed that the Department during the period of 82 days (1 April 2011 to 21 June 2011) collected royalty which was less by ₹ 48.73 lakh in comparison to proportionate amount of the yearly contract of ₹ 8.61 crore sanctioned in favour of M/s Dharmender Singh. Thus, delay in tendering process resulted in less collection of ₹ 48.73 lakh.

The matter was brought to the notice of the Department and reported to the Government in March 2013. The Government stated (December 2013) that the ME office sent proposal on 13 January 2011 for fixing the reserve price at ₹ 10.80 crore. It was also stated that the DMG approved the reserve price of ₹ 10.80 crore on 28 January 2011 but due to amendment in the Rule 33A of RMMC Rules, 1986 the reserve price was to be increased at the rate of 10 *per cent*. The DMG accordingly revised the reserve price to ₹ 11.67 crore for which no bid was received due to excessive reserve price. The reserve price thereafter was revised five times and finally settled at ₹ 8.51 crore. The contract could not be made effective within time.

7.7.3.2 During test check of ERCC/RCC contract files in the office of the DMG, it was noticed (January 2013) that a tender was invited for RCC for collection of royalty and permit fee pertaining to mineral *Bajri,* to be despatched from the revenue areas of *tehsils* Girwa, Mawali, Vallabhnagar and Salumbar of District Udaipur for a period of two years (2010-12). The tender opening committee selected the highest bid amounting to ₹ 2.52 crore per year against reserve price of ₹ 2.10 crore which was offered by a contractor. The bid was provisionally selected (17 February 2010). The contractor complied with all provisions of Rules 32 to 35. Accordingly the ME/SME recommended the name of the contractor for the award of the contract to the DMG. However, the DMG cancelled (9 March 2010) the proposal under the provisions of Rules 35 (xii) on the ground that the reserve price fixed by the ME/SME was not properly estimated which had resulted in fixation of low reserve price for the bid. A new offer of ₹ 2.70 crore was also received (25 February 2010) in Directorate from a new firm which had not participated in the tender. The Director instructed (8 March 2010) to invite a fresh tender after reconsidering the reserve price of ₹ 2.70 crore.

The contractor made an appeal in the Hon'ble High Court, Rajasthan Single Bench (SB) against the order of Directorate dated 9 March 2010. The SB of the Hon'ble High Court ordered (26 May 2011) the Director to award the RCC in favour of the contractor as his offer was valid. The Government appealed (22 December 2011) in Double Bench of High Court against the order (26 May 2011) of SB. The stay on retendering process was vacated (22 August 2012) by Hon'ble High Court as the contractor withdrew the case from the Court.

Scrutiny of contract related files disclosed that the reason accorded for low fixation of reserve price by the Director was not based on facts as the reserve price was fixed as per Directorate's letter dated 8 January 2010. The decision of the Director was, therefore, incorrect and had resulted in non-commencement of contract for more than two years. As a consequence, the Department collected royalty of ₹ 5.40 crore against the provisionally selected bid amount of ₹ 7.86 crore payable by the contractor during 2010-12 which resulted in loss of revenue of ₹ 2.46 crore.

The matter was brought to the notice of the Department and reported to the Government in February 2013. The Government stated (October 2013) that the Department decided to retender as another company offered ₹ 2.70 crore against the highest bid amount of ₹ 2.51 crore before sanctioning of the contract. Therefore, the contract was not sanctioned for maximisation of revenue and to avoid notional loss.

The reply is not acceptable as the decision to cancel the highest valid offer by the Directorate was not correct and legitimate. Because of this action there was a loss of revenue of ₹ 2.46 crore.

7.7.3.3 During test check of the records of ME, Kota, it was noticed (June 2012) that an ERCC for collection of excess royalty on masonry stone from the leases situated in *tehsils* Indergarh and Nainwa of District Bundi at yearly contract amount of ₹ 1.35 crore for the period from the date of execution of the contract to 31 March 2013 was recommended on 29 September 2011 in favour of a contractor after the earlier contract awarded to this same contractor for ₹ 1.96 crore was revoked (19 July 2011) due to non-deposit of monthly instalments in time. The proposal for sanction of the above contract, however, remained pending in the office of DMG till 23 May 2012.

It was noticed that due to indecision in regard to the contract, the Department operated its own check posts during 1 October 2011 to 31 March 2012 and collected royalty of ₹ 22.89 lakh. The contract was finally awarded in August 2012 at ₹ 1.35 crore to another contractor.

Had the Department taken decision on time, royalty of ₹ 52 lakh based on proportionate amount of the highest bid of ₹ 1.35 crore could have been recovered.

The Government in its reply (December 2013) stated that the contractor on an earlier occasion had defaulted causing loss of revenue and that it was difficult to ensure that he would not back out again. It added that the PAC Chairman had opined that the Department should blacklist defaulter contractors to avoid recurrence of such incidents and in view of these facts, the matter was referred to the Government which directed (11May 2012) to cancel the tender. Further the Government agreed that collection of royalty through departmental check post is not as effective as collection of royalty through contractors.

The reply is not acceptable because the decision for rejection of bid was delayed substantially resulting in loss of revenue.

7.7.4 Irregular transfer of leases

Rule 11 (2) of the RMMC Rules, 1986 provides that no person shall acquire one or more mining leases covering total area of more than 10 sq km in respect of any mineral or group of associated minerals as prescribed in Schedule-III provided that the maximum number of mining leases to be granted for a particular mineral to a person within direct jurisdiction of any ME shall be restricted to two and the total number of leases in the entire State would not exceed three. Provided further that if the Government is of the opinion that it is in the interest of the mineral development, it may for reasons to be recorded permit grant of mining leases exceeding two or three in number as the case may be and/ or covering an area in excess of 10 sq km.

Rule 72 provides that no mining lease, quarry licence, short term permit (STP) or any other permit shall be granted otherwise than in accordance with the provisions of these Rules and if granted shall be deemed to be null and void.

Rule 48 provides that whenever any person without a lawful authority raises any mineral from any land and the mineral so raised has already been despatched or consumed, the authorities may recover cost of the mineral along with rent, royalty or the tax chargeable on land occupied or mineral excavated. The cost of the mineral will be computed as 10 times the royalty payable at the prevalent rates.

During test check of the records of ME, Jaipur, it was noticed (December 2012) that two leases (No. 47/90 and 275/02) of the minor mineral masonry stone were sanctioned in favour of a lessee. However, two other mining leases (No. 88/95 and 334/97) which were sanctioned to the lessee's father were transferred (7 May 2010) to the lessee by mutation (22 June 2009) on the direction of Additional Director (Mines), Jaipur. The transfer of two other leases (88/95 and 334/97) was to be treated as null and void in terms of provisions contained in Rule 11(2) and Rule 72 of RMMC Rules 1986. Therefore, 32,827 MT mineral costing ₹ 61.22 lakh excavated during July 2009 to March 2012 against lease no. 88/95 and 334/97 possessed by the lessee were unlawful.

The matter was brought to the notice of the Department and reported to the Government (January 2013). The Government replied (October 2013) that restriction of two lease was not applicable in case of transfer of leases in favour of successor.

The reply is not acceptable because sanctioning of more than two leases under the direct control of any ME required specific sanction of the Government. Further, in a similar case reported in the Audit Report 2008-09, the PAC in its Report 254 had directed (12 August 2013) the Department to seek legal opinion. The legal opinion on this matter had not been communicated (February 2014).

7.7.5 Excavation and despatch of mineral marble without lawful authority

The State Government vide notification dated 13 October 2008 prescribed the procedure for conversion of *Bapi pattas* into quarry licences. The *Bapi patta* holders had to apply for regularisation of their *pattas* in prescribed proforma within 30 days from the date of issue of notification. In case the *patta* holder failed to apply or his application was rejected by competent officer, the possession of the area of the *patta* was to be taken over by the Department besides taking action as per provisions of Rule 48 of RMMC Rules, 1986 treating mining activities illegal under Rule 64.

Rule 64 of RMMC Rules, 1986 provides that the Government shall not recognise *Bapi* or proprietary right in any land wherein such right is claimed by any person over any mineral bearing land, quarry of mines, unless declared so by a court of competent jurisdiction.

Rule 48 provides that whenever any person without a lawful authority raises any mineral from any land and where mineral so raised has already been despatched or consumed, the authorities may recover cost of the mineral along with rent, royalty or the tax chargeable on land occupied or mineral excavated. The cost of the mineral will be computed as 10 times the royalty payable at the prevalent rates.

During test check of the records of ME, Makrana, it was noticed (October 2012) that 49 *Bapi patta*[1] holders excavated and despatched 66,307.78 MT marble valuing ₹ 10.87 crore during the period 2011-12 though they had not applied for regularisation of their *pattas* within the prescribed period as per provisions of the notification. The ME did not take possession of areas of *pattas* possessed by these *Bapi patta* holders. As a result, they continued mining operations unlawfully.

The matter was brought to the notice of the Department and reported to the Government (November 2012). The Government replied (January 2014) that action for regularisation of *Bapi pattas* was under consideration and applications for regularisation of *Bapi pattas* had been received. It was also stated that the royalty of the mineral excavated from the *Bapi patta* areas was recovered by the Department. The fact however remains that the mineral was excavated unlawfully and cost of the mineral should have also been recovered from the occupier in addition to the royalty under RMMC Rules.

[1] Parental mining rights on land.

7.7.6 Non-raising/short-raising of demand on granite

Rule 48(1) and (5) of the RMMC Rules, 1986 provides that no person shall undertake any mining operations except under permission granted under these Rules. Whenever any person, without lawful authority, raises any mineral and the mineral so raised has already been consumed, the AME/ME concerned may recover the cost of mineral along with royalty at the prevalent rates. The cost of mineral will be computed as 10 times the royalty.

During test check of the records of ME, Sirohi, it was noticed (October 2012) that in two cases demand for unauthorised excavation and despatch of mineral granite was raised short as cost of mineral equivalent to 10 times of royalty was considered for recovery but the royalty amount of ₹ 47.76 lakh was excluded in demand order and in one case the demand of ₹ 94.77 lakh was pending for approval. This resulted in short raising and non-raising of demand of ₹ 1.43 crore.

The matter was brought to the notice of the Department and reported to the Government (November 2012). The Government stated (December 2013) that the cost of mineral including rent, royalty or tax equivalent to 10 times of royalty was recoverable and so the raised demand was correct. The reply is not acceptable because as per rule, the cost of mineral is to be recovered along with royalty.

7.7.7 Non-levy of royalty for illegal storage of major mineral

As per Rules 3 and 11 of the Rajasthan Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2007, no person shall carry on the business of buying, selling, storing, distributing or processing of mineral or mineral ores directly or use minerals and/or its ingredient as a raw material without being registered as a dealer under these Rules. Whoever, contravenes the provision of these Rules shall be punishable under the provisions of Section 21 of MMDR Act, 1957.

As per Section 21(5) of Act, where the mineral is excavated/despatched unlawfully, the cost of the mineral along with royalty shall be recovered from the defaulter.

During test check of the records of ME, Jodhpur, it was noticed (July 2012) that the ME had found illegal storage of the mineral Jespar (6 March 2011) by two firms on inspection. The ME issued show cause notices to both the firms for production of records. Based on scrutiny of records, the ME forwarded (12 September 2011) the cases to SME, Jodhpur for approval of demand of ₹ 1.02 crore as the cost of mineral Jespar on the basis of the capacity and electric consumption of the crusher. The demands were approved by SME on 18 October 2011. On scrutiny of the demand notices, it was found that the ME had not included royalty at the rate of 10 *per cent* of the cost which worked out to ₹ 10.21 lakh.

The matter was brought to notice of the Department and reported to the Government (between August 2012 and August 2013). The Government stated (December 2013) that the demands of recoverable amount were on higher side. The reply is not acceptable because as per the MMDR Act, the cost of mineral is to be recovered along with royalty.

7.7.8 Non-levy of interest on delayed payment of royalty

Section 9 of the MMDR Act, 1957 provides that the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area at the rate for time being specified in the second schedule of the MMDR Act in respect of that mineral.

Further, as per Rule 64 of MC Rules, 1960, simple interest at the annual rate of 24 *per cent* on royalty due is chargeable from the sixtieth day of the expiry of the due date fixed for payment.

7.7.8.1 During test check of the records of ME, Ramganjmandi, it was noticed (June 2012) that a mining lease (No. 2/1976) for the mineral limestone was sanctioned in favour of M/s Manglam Cement. Scrutiny of assessment orders disclosed that the lessee had deposited (11 October 2011) royalty of ₹ 1.60 crore under protest against the reassessment order for the period from 21 February 1995 to 21 February 2002. It was noticed that the department calculated the interest of ₹ 2.81 crore on the delayed period from the date of assessment order (16 June 2004) while the interest was to be calculated from the sixtieth day after expiry of the assessment year. Thus, calculating interest from the date of assessment order, resulted in short raising of demand of ₹ 1.71 crore.

The matter was brought to notice of the Department and reported to the Government between July 2012 and August 2013. The Government stated (November 2013) that the Department had already raised differential demand of royalty of ₹ 1.60 crore against which the lessee filed a writ (SB civil writ no. 4597/2004) in the Rajasthan High Court. The fact remains that the Department had calculated interest from the date of the reassessment order whereas interest was to be calculated after sixtieth day of the completion of the relevant year.

Rule 33 D (2) of the RMMC Rules, 1986, provides that the monthly/ quarterly instalment of annual contract amount shall be paid in advance before the due date. In case the monthly/ quarterly instalment is not deposited by the due date then interest shall be payable at the rate of 15 *per cent* per annum from the due date.

Further, Rule 62 provides that Government may recover any dues in respect of dead rent, royalty, quarry licence fee, royalty collection contract amount, cost of mineral, penalties and any other dues under these rules together with interest as arrears of land revenue under the law in force relating to such recovery.

7.7.8.2 During test check of the records of ME, Sojat City, it was noticed (September 2012) that an RCC for collection of the royalty on mineral *bajri* in *Tehsil* Desuri was sanctioned for the period from 1 April 2010 to 31 March 2012. Scrutiny of records disclosed that the contractor had deposited the monthly instalments with a delay ranging from 14 days to 300 days for the period from 1 April 2010 to November 2011 and had not deposited full monthly instalments for the period from December 2011 to March 2012. The ME, however, neither raised demand of unpaid principal of ₹ 10.90 lakh and interest of ₹ 2.98 lakh nor initiated any action for revocation of the contract.

The matter was brought to notice of the Department and reported to the Government between November 2012 and July 2013. The Government stated (November 2013) that demands for the revised contract amount of ₹ 15.25 lakh and interest of ₹ 2.98 lakh had been raised, out of which ₹ 8.99 lakh had been recovered.

Rule 61 of the RMMC Rules, 1986 provides that interest at the rate of 15 *per cent* shall be charged on all dues relating to dead rent, royalty, quarry licence fee and RCC/ERCC amounts from the due date.

7.7.8.3 During test check of the Demand Register of bricks earth permits of ME, Jaipur, it was noticed (December 2012) that demand of interest of ₹ 9.36 lakh on delayed payments ranging between 1 and 546 days, was not raised against 64 brick earth permit holders.

The matter was brought to the notice of the Department and reported to the Government in October 2013. The Government replied (January 2014) that demands of interest had been raised in all the 64 cases and ₹ 8.26 lakh had been recovered in 57 cases. It was also stated that necessary action was being taken to recover the amount in the remaining cases.

7.7.9 Irregular sanction of leases in forest area

Rules 4(6) of the RMMC Rules, 1986 provides that no mining lease shall be granted or renewed in the forest area without clearance from the Central Government in accordance with Forest (Conservation) Act, 1980 and the Rules made thereunder.

Rule 72 provides that no mining lease, quarry licence, short term permit or any other permit shall be granted otherwise than in accordance with the provisions of these Rules and if granted, shall be deemed to be null and void.

Rule 48(1) and (5) provides that no person shall undertake any mining operations except under permission granted under these Rules. Whenever any person, without a lawful authority, raises any mineral from any land and mineral so raised has already been consumed, the AME/ME concerned may recover the cost of mineral along with royalty.

During test check of records of ME, Karauli, it was noticed that nine leases of mineral masonry stone were cancelled on the directions of Rajasthan High Court, Jaipur as the lease areas were falling under forest area. As the allotment of mining lease in forest area was restricted, allotment of mining leases and excavations therefrom was illegal, requiring recovery of cost of mineral and royalty. However, the ME did not raise the demand. The cost of the mineral masonry stone excavated and despatched from these leases worked out to ₹ 46.36 lakh.

The matter was brought to notice of the Department and reported to the Government between March and July 2013. The Government stated (November 2013) that (i) the leases were sanctioned after obtaining clearance from the Land Revenue Department and the Forest Department and that the area of leases was part of revenue land (ii) the leases were sanctioned in forest area due to incorrect facts submitted by the Forest Department and thus the Forest Department was the defaulter not the Mining Department (iii) there was contravention of Rule 72 of RMMCR 1986 and not contravention of Rule 48(1) and 48(5), hence excavation from the areas of sanctioned leases could not be treated as illegal.

The reply is not acceptable because grant of any mining lease or quarry licence in contravention of Rules was to be treated as null and void. The Hon'ble High Court Jaipur Bench declared the sanction of leases null and void and excavation of mineral from leases unauthorised. Thus, raising or consumption of the mineral, from such land attracted penal provisions. Thus, the Government lost revenue of ₹ 46.36 lakh.

7.7.10 Unauthorised excavation and use of minerals by public works contractors

As per Government circular dated 8 October 2008, the public works contractor shall have to obtain STP, for the minerals to be used in the works, from the concerned ME/AME before starting the work. In case of use of mineral in work without STP, the concerned works department is responsible for depositing the cost of minerals used without STP.

The contractor has to submit records for assessment of royalty of minerals authorised in STP and actually used in the works within 15 days of completion of STP period.

As per Rule 63 of the RMMC Rules, 1986, the cost of excess quantity of the minerals illegally excavated and used shall be recovered, if such quantity exceeds 25 *per cent* of that permitted in STP. The cost of minerals shall be 10 times the prevalent royalty as envisaged in Rule 48.

7.7.10.1 During cross verification of STPs issued to public works contractors by the ME/AME and the work orders' 'G' schedules[2] maintained in 11 ME/AME offices, it was noticed (July 2012 to March 2013) that 106 works contractors excavated/ consumed minerals like masonry stone, *bajri*, gravel, ordinary soil *etc.* either without obtaining STP or more than 25 *per cent* of the quantity permitted in the STP. The cost of minerals illegally excavated, worked out to ₹ 6.21 crore, which was not recovered from the concerned contractors.

The matter was brought to the notice of the Department and reported to the Government (March 2013). The Government stated (December 2013) that the consumption statements with STP were called for from the concerned Departments, on the basis of which actual quantity of mineral consumption and royalty payable thereon would be ascertained.

[2] Abstract of cost

7.7.10.2 During test check of the records of four ME offices, it was noticed (June 2012 to February 2013) that the public works contractors excavated and used minerals without obtaining STP from the MEs concerned. The royalty on such minerals was to be deducted by the concerned Works Department and deposited into the appropriate head of account. As per provisions of Rule 63 and Government's circular (08 October 2008), in cases where contractors excavated and used minerals without STP, the concerned Department was responsible to deduct the cost of the mineral in place of single royalty. Further, the MEs were supposed to take appropriate action for recovery of the amount which was not done. This resulted in short recovery of the cost of mineral amounting to ₹ 49.01 lakh as under:

(₹ in lakh)

Name of the Office	Recovered single royalty amount	Cost of mineral (10 times royalty)	Recoverable amount
ME, Alwar	1.18	11.83	10.65
ME, Chittorgarh	1.82	18.22	16.40
ME, Makrana	1.84	18.40	16.56
ME, Ramganjmandi	0.60	6.00	5.40
Total	**5.44**	**54.45**	**49.01**

The matter was brought to the notice of the Department and reported to the Government in March 2013. The Government replied (December 2013) that letters have been issued to Regional Managers, Rajasthan Investment and Industrial Corporation (RIICO), Alwar, Bhiwadi-II (Alwar) and Urban Improvement Trust, Chittorgarh to deposit the amount, failing which action would be initiated under the Rajasthan Land Revenue Act. It was also stated that ₹ 16,704 had been recovered from RIICO Bhiwadi- I (Alwar).

The reply is not acceptable as in no case the cost of mineral as per mineral consumption statement was assessed.

7.7.11 Recovery of single royalty instead of cost on illegally despatched mineral

Rule 18(9) of the RMMC Rules, 1986 provides that lessee or any other person shall not remove or despatch or utilise the minerals from the mines and quarries without *rawannas.* In case of despatch of mineral without lawful authority, Rule 48(5) provides for recovery of the cost of minerals worked out as 10 times the royalty payable at the prevalent rates along with royalty. The deed executed for excess royalty collection contract in Form 10 under the provisions of Rule 37 (2) of the said Rules provides that contractor shall not collect the royalty from vehicles carrying minerals without the *Rawanna* in Form-12 issued under departmental stamp and hand over such vehicles to the Department.

During test check of the records of ME, Bundi-II, it was noticed that leases under the jurisdiction of ME, Bundi-I and II were sanctioned for mineral

sandstone and *rawannas* were issued for despatch of mineral sandstone. The ERCC contract to collect excess royalty from these leases was awarded to M/s Parth Network Private Ltd, Udaipur (contractor) for the period from 8 April 2010 to 31 March 2012 at a yearly contract amount of ₹ 9.66 crore. The Department, however, did not issue any *rawanna* to the lessees for the mineral cobbles and masonry stone collected from the waste of the mines. It was noticed that the contractor collected the royalty amounting to ₹ 6.22 crore from the vehicles carrying cobbles (9,21,120 MT) and masonry stone (18,260 MT) which were not supported by *rawannas* despite the fact that such vehicles were to be handed over to the Department for recovery of cost of mineral.

It was further noticed that after the revocation of the contract, the Departmental check posts also allowed despatch of cobbles (1,657 MT) and masonry stone (2,04,537 MT) from the vehicles which were not carrying *rawannas* during the period 14 September 2011 to 31 March 2012 and collected single royalty amounting to ₹ 38.86 lakh.

As per Rule 48 (2) of the RMMC Rules 1986, removal or despatch of any mineral from the lease without *rawannas* is illegal. Hence, cost of mineral amounting to ₹ 62.20 crore was recoverable from the contractor. Further, there was loss of ₹ 3.88 crore due to non observation of the above provision by the Department when their own check posts were operative.

The matter was brought to the notice of the Department and reported to the Government in December 2012. The Government stated (November 2013) that the ERCC included the royalty on masonry stone and cobbles and therefore separate *rawannas* were not issued. Further the departmental check posts collected permit fees as was done previously for collection of royalty on the masonry stone and cobbles. However to remove the technical flaw, Rule 63A has been inserted in RMMC Rules, 1986 with effect from 14 October 2011, whereby separate STP would be issued for mineral cobbles and masonry stone.

The fact remains that though separate clause vide Rule 63A has been inserted in RMMC Rules, 1986, its compliance was not ensured by the Department.

7.7.12 Illegal excavation and despatch of mineral masonry stone due to inaction of the Department

Rule 48(5) of the RMMC Rules, 1986, provides that whenever any person, without a lawful authority, raises any mineral from any land and where mineral so raised has already been despatched or consumed, the concerned authorities may recover cost of the mineral along with royalty. The cost of mineral was to be computed as 10 times the royalty payable at the prevalent rates.

During test check of the reports of site inspection conducted by SME and ME (Vigilance), Jaipur, it was noticed (March and July 2012) that a mining lease (No. 46/99) was operational for the mineral masonry stone near village Raipur, *Tehsil* Dantaramgarh under the jurisdiction of ME, Sikar. Scrutiny (July 2011) of

records disclosed that 52,226 MT of masonry stone was illegally excavated beyond the lease area and despatched by the lessee. However, the ME did not raise the cost of mineral amounting to ₹ 1.15 crore against the lessee.

The matter was brought to the notice of the Department and reported to the Government (June 2013). The Government replied (December 2013) that progress of recovery would be intimated in due course.

(S. ALOK)
Accountant General
(Economic & Revenue Sector Audit), Rajasthan

JAIPUR,
The

Countersigned

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India

NEW DELHI,
The

APPENDIX

Appendix - A

(Refer paragraph 1.2.4)

Position of paragraphs which appeared in the Audit Reports and those pending discussion as on 31 December 2013

Name of Tax		2005-06	2006-07	2007-08	2009-10	2010-11	2011-12	Total
Taxes on Sales, Trade *etc.*	Paras appeared in the Audit Report	14	11	5	8	9	6	53
	Paras pending for discussion	2	1	1	8	9	6	27
Taxes on Vehicles	Paras appeared in the Audit Report	6	6	9	4	5	4	34
	Paras pending for discussion	-	-	-	-	5	4	9
Land Revenue	Paras appeared in the Audit Report	2	1	5	3	3	7	21
	Paras pending for discussion	-	-	-	-	3	7	10
Stamp duty and Registration fee	Paras appeared in the Audit Report	3	3	6	5	1 (Stand Alone Report)	7	25
	Paras pending for discussion	-	-	-	5	1	7	13
State Excise	Paras appeared in the Audit Report	2	5	4	2	1	4	18
	Paras pending for discussion	-	-	-	2	1	4	7
Mining	Paras appeared in the Audit Report	9	10	8	1 (Stand Alone Report)	10	15	53
	Paras pending for discussion	-	-	-	1	10	15	26
Others	Paras appeared in the Audit Report	3	5	2	5	3	-	18
	Paras pending for discussion	-	-	-	5	2	-	7
Total	**Paras appeared in the Audit Report**	**39**	**41**	**39**	**28**	**32**	**43**	**222**
	Paras pending for discussion	**2**	**1**	**1**	**21**	**31**	**43**	**99**

Appendix - B

(Refer paragraph 1.2.4)

Position of outstanding ATNs due from the Departments as on 31 December 2013

Sl. no.	No. of PAC Report	Date of presentation in Assembly	Name of the Department	Year of Audit Report	No. of action taken notes due
1	251st Report of 2007-08	17.3.2008	Mines (Non-Tax)	2001-02	8
2	252nd Report of 2007-08	17.3.2008	Mines (Non-Tax)	2002-03	10
3	51st Report of 2010-11	31.8.2010	Water resources and public works (Non-Tax)	2005-06 & 2006-07	1
4	52nd Report of 2010-11	15.3.2011	Water resources (Non-Tax)	2003-04	10
5	66th Report of 2010-11	15.3.2011	Transport	2005-06	18
6	67th Report of 2010-11	15.3.2011	Transport	2006-07	9
7	84th Report of 2011-12	26.8.2011	Transport	2004-05	10
8	106th Report of 2011-12	26.8.2011	Land Revenue	2004-05 & 2006-07	3
9	116th Report of 2011-12	26.8.2011	Mines (Non-Tax)	2003-04	5
10	131st Report of 2011-12	29.2.2012	Registration and Stamps	2007-08	10
11	132nd Report of 2011-12	29.2.2012	Registration and Stamps	2005-06	8
12	133rd Report of 2011-12	29.2.2012	Urban Development (Non-Tax)	2008-09	14
13	135th Report of 2011-12	29.2.2012	Registration and Stamps	2008-09	12
14	139th Report of 2011-12	29.2.2012	Land Revenue and Energy	2005-06	9
15	154th Report of 2011-12	28.3.2012	Mines (Non-Tax)	2004-05	15
16	155th Report of 2011-12	28.3.2012	Mines (Non-Tax)	2005-06	11
17	156th Report of 2011-12	28.3.2012	Mines (Non-Tax)	2006-07	10
18	169th Report of 2012-13	11.10.2012	State Excise	2007-08	1
19	170th Report of 2012-13	11.10.2012	State Excise	2006-07	1
20	171th Report of 2012-13	11.10.2012	State Excise	2008-09	2
21	180th Report of 2012-13	11.10.2012	State Excise	2005-06	10
22	182th Report of 2012-13	26.2.2013	Registration and Stamps	2006-07	30
23	214th Report of 2012-13	21.3.2013	Land Revenue	2007-08	11
24	220th Report of 2012-13	21.3.2013	Mines (Non-Tax)	2007-08	6
25	222th Report of 2012-13	21.3.2013	Land Revenue	2009-10	27
Total					**251**

Glossary of abbreviations

Abbreviation	Expanded form
AA	Assessing Authority
AC	Assistant Commissioner/Additional Collector
ACTO	Assistant Commercial Taxes Officer
ADM	Additional Director, Mines
AEO	Assistant Excise Officer
AME	Assistant Mining Engineer
ATN	Action Taken Note
BE	Budget Estimates
BIFR	Board for Industrial and Financial Reconstruction
BIO	Bottled-In-Origin
BL	Bulk Litre
BOR	Board of Revenue
CCT	Commissioner of Commercial Taxes
CL	Country Liquor
CMVR	Central Motor Vehicles Rules, 1989
CrPC	Criminal Procedure Code
CSD	Canteen Store Department
CST	Central Sales Tax
CST Act	Central Sales Tax Act
CTI	Commercial Taxes Inspector
CTO	Commercial Taxes Officer
DC	Deputy Commissioner
DCB	Demand Collection Book
DCR	Demand and Collection Register
DE	Director Enforcement
DEO	District Excise Office
DGMS	Director General of Mines Safety
DIG	Deputy Inspector General
DLC	District Level Committee
DMG	Director, Mines and Geology, Rajasthan, Jaipur
DO	Demi-official

DRs	District Registrars
DRT	Debt Recovery Tribunal
DTO	District Transport Office
EC	Excise Commissioner
ENA	Extra Neutral Alcohol
EPF	Excise Preventive Force
ERCC	Excess Royalty Collection Contract
GOI	Government of India
IA Wing	Internal Audit Wing
IAR	Inspection, Audit and Recovery
IARs	Internal Audit Reports
IG	Inspector General
IMFL	Indian Made Foreign Liquor
IR	Inspection Report
IT	Information Technology
ITC	Input Tax Credit
JCTOs	Junior Commercial Taxes Officers
JDA	Jaipur Development Authority
LPL	London Proof Litre
MC Rules	Mineral Concession Rules, 1960
MCDR	Mineral Conservation and Development Rules, 1988
ME	Mining Engineer
MIS	Management Information System
MMDR Act	Mines and Minerals (Development and Regulation) Act, 1957
MT	Metric Ton
MV Act	Motor Vehicles Act, 1988
NDPS	Narcotic Drugs and Psychotropic Substances
NH	National Highway
NIC	National Informatics Centre
NOC	No Objection Certificate
PAC	Public Accounts Committee
PO	Patrolling Officer
RC	Registration Certificate

RCC	Royalty Collection Contract
RCR	Revenue Collection Register
RE	Revised Estimate
RE Act	Rajasthan Excise Act, 1950
RF	Registration Fee
RIICO	Rajasthan State Industrial Development and Investment Corporation
RIPS	Rajasthan Investment Promotion Scheme
RLT Act	Rajasthan Land Tax Act
RLT Rules	Rajasthan Land Tax Rules
RMMC Rules	Rajasthan Minor Minerals Concession Rules, 1986
RMV Rules	Rajasthan Motor Vehicles Rules,1990
RMVT Act	Rajasthan Motor Vehicles Taxation Act, 1951
RMVT Rules	Rajasthan Motor Vehicles Taxation Rules,1951
RNDPS Rules	Rajasthan Narcotic Drugs and Psychotropic Substances Rules, 1985
ROF	Registrar of Firms
RR	Revenue Recovery
RRCs	Revenue Recovery Certificates
RRVPNL	Rajasthan Rajya Vidyut Prasaran Nigam Limited
RS	Rectified Spirit
RS Act	Rajasthan Stamp Act
RSRTC	Rajasthan State Road Transport Corporation
RST	Rajasthan Sales Tax
RTA	Regional Transport Authority
RTD	Ready to Drink
RTO	Regional Transport Office
RVAT	Rajasthan Value Added Tax
SD & RF	Stamp Duty & Registration Fees
SDO	Sub-Divisional Officer
SEZ	Special Economic Zone
SME	Superintending Mining Engineer
Sq ft	Square feet
Sq m	Square metre

Sq Km	Square Kilometre
SR cases	Special Report cases
SRs	Sub-Registrars
STP	Short Term Permit
SVF	Special Vend Fee
TC	Transport Commissioner
UDD	Urban Development Department
TDS	Tax Deducted at Source
UIT	Urban Improvement Trust
VAT	Value Added Tax

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